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ABSTRACT

On May 8, 1990, testimony concerning the Child Labor Act of 1990 was heard at a joint hearing of two U.S. Senate subcommittees. Opening statements by Senators Metzenbaum and Jeffords concerned: (1) the increase in child labor law violations since 1983; (2) the lack of increase in penalty fines since that time; (3) child death and injury during illegal work; and (4) the relationship between child labor and difficulty in school. Representatives of the business community were not present at the hearings, but records of the hearings were kept open for 10 days to receive business responses. A child worker, mother, and medical professional provided testimony about cases of child injury during illegal work. Representatives of several governmental agencies and private organizations also provided testimony. Represented were the National Consumers League, the Child Welfare League of America, and the AFL-CIO. The record also contained several items of testimony from a 1989 hearing in which the poor working conditions for home work in the women's apparel industry were described by the women workers. Prepared statements by the National Safe Workplace Institute and several other organizations are provided. (BC)

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CHILD LABOR ACT OF 1990

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HEARING

BEFORE THE

SUBCOMMITTEE ON LABOR AND
SUBCOMMITTEE ON CHILDREN,
FAMILY, DRUGS AND ALCOHOLISM

OF THE

COMMITTEE ON
LABOR AND HUMAN RESOURCES
UNITED STATES SENATE

ONE HUNDRED FIRST CONGRESS

SECOND SESSION

ON

S. 2548

TO AMEND THE FAIR LABOR STANDARDS ACT OF 1938 TO INCREASE PENALTIES FOR EMPLOYERS WHO VIOLATE THE CHILD LABOR PROVISIONS OF SUCH ACT, AND FOR OTHER PURPOSES

MAY 8, 1990

Printed for the use of the Committee on Labor and Human Resources

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CHILD LABOR ACT OF 1990

TUESDAY, MAY 8, 1990

U.S. SENATE,
SUBCOMMITTEE ON LABOR AND
SUBCOMMITTEE ON CHILDREN, FAMILY, DRUGS AND
ALCOHOLISM,
OF THE COMMITTEE ON LABOR AND HUMAN RESOURCES,
Washington, DC.

The joint hearing convened, pursuant to notice, at 10:10 a.m., in room SD-430, Dirksen Senate Office Building, Senator Howard M. Metzenbaum (chairman of the Subcommittee on Labor) and Senator Christopher J. Dodd (chairman of the Subcommittee on Children, Family, Drugs and Alcoholism) presiding.

Present: Senators Metzenbaum, Dodd and Jeffords.

OPENING STATEMENT OF SENATOR METZENBAUM

Senator METZENBAUM. Good morning. Today we consider S. 2548, a bill to enhance the penalties and improve the enforcement scheme for child labor law violations. Fifty years ago, Congress passed a historic law that promised to end oppressive child labor in this country. But tragically, the illegal employment of children in dangerous occupations continues to haunt our Nation.

We have not kept our promise to ensure that children are educated in the schools and not exploited in the workplace. The testimony we will hear today from victimized young Americans and their parents illustrates how children illegally employed may be robbed of an education, their limbs, and yes indeed, their lives.

A just-released General Accounting Office study of child labor law violations for fiscal years 1983 through 1989 reveals a significant increase in all types of child labor law violations in all areas of the country. The number of work hour violations tripled during this period, while the number of violations in the most dangerous categories has doubled. Yet, while the number and seriousness of child labor violations has increased steadily during the past decade, the average fine imposed by the Department of Labor has declined in real terms. Although a maximum fine of $1,000 may be imposed for civil violations of child labor laws, the average fine assessed per minor was $164 in 1983 and $165 in 1989—a $1 difference. That meager $1 increase over 6 years does not even keep pace with inflation. The cost of a movie ticket has gone up more in the last 6 years than the cost of violating child labor laws.

Think about it. The cost of a cheeseburger, fries and a soda has outstripped the penalties for child labor violations. The increase in the cost of blue jeans in the last 6 years is greater than the increased cost of violating basic child labor law protections. That is scandalous.

These astonishingly low civil penalties are imposed even as 33 States report that 48 minors were killed and 128,000 minors were injured in the workplace during fiscal years 1987 and 1988. Moreover, under current law, a criminal violation of Federal child labor laws is classified as a simple misdemeanor with a maximum six-month prison term. I know of no employer ever jailed, or criminal fine imposed, for a willful violation of child labor laws resulting in death or serious bodily injury to a child. That is incredible.

Clearly, current Federal child labor laws are inadequate to protect our children in the workplace. They invite potential violators to treat child worker deaths and injuries as just another cost of doing business. At the same time, they discourage criminal prosecutions by providing virtually no prospect of incarceration. Recently, we have seen some progress in enforcement of Federal child labor laws by the Department of Labor. But sporadic enforcement of inadequate laws will not make a significant difference in the health and safety conditions for child workers.

The Child Labor Act of 1990 will make a difference by sending the message that employers who willfully murder and mutilate child workers will do hard time in prison. That is the way it should be. This bill will also close loopholes in enforcement by adding to the list of hazardous occupations, increasing civil fines to a maximum of $10,000, and requiring the publication of the names of violators and the nature of their violations.

I look forward to hearing the testimony of today's witnesses. We will first hear the personal experiences of people who have suffered through a workplace tragedy. We also will hear from the Department of Labor and youth, labor, and consumer organizations.

I pledge to do everything possible to enact this bill into law in this Congress.

Now, I do want to mention fact that there are no opposition witnesses. I want to mention it before we begin today's hearing. There are no witnesses here from the business community. I want to make clear, however, that the business community was more than welcome to testify. And I must say that I am gratified that at this point that business opposition has not appeared.

Senators Jeffords and Coats, the ranking minority members of the subcommittees, contacted several business organizations to inquire of them as to whether they wish to testify today. Despite these efforts, business representatives decided not to testify. The record will remain open for 10 days after the hearing for any interested parties, including business representatives or others, to submit statements.

Although I do not yet assume that the silence of the business community at today's hearing indicates that American business has no significant criticism of this bill, let me say that if the business community has some specific concerns as to wording or language or applicability, our door remains open to discuss the subject with them. We want to be fair. We want to be equitable. We want to be reasonable. But we want to improve the penalties that are applicable in connection with child labor law violations.

I am very happy to welcome a Member of the U.S. Senate that hasn't been with us too long, but has certainly distinguished himself since he has joined us, indicating a reasonable approach to so many problems in the U.S. Senate. I am very happy to welcome Senator Jim Jeffords of Vermont.

OPENING STATEMENT OF SENATOR JEFFORDS

Senator **JEFFORDS**. Thank you, Mr. Chairman. I am certainly pleased to be here at these hearings, and I am glad that this hearing has been called because I think it is incredibly important that we look into the violations which we have determined and ascertained by the work of the Department of Labor, and probably for the first time in depth since these laws were enacted. We need to take a look at what is going on out in the business community and the work community, as well as to examine whether or not any changes are in order with respect to changes in our society.

I am sure that the business community is concerned and interested in this legislation and interested in trying to re-evaluate our laws to determine why there were so many violations found, and also to determine whether or not the bill which is before us is one which will assist in ending those violations, and what problems it may create, especially when one takes a look at the relationship of the child labor laws and OSHA in the areas that are of concern to you and of concern to me, injuries resulting, etc.

I would point out that the business community, however, only had 5 working days to look at this bill before this hearing time. Due to the processes necessary for the business community to react and to come forward with a formal presentation, it necessarily would take some time longer than that. I understand the record will be open for 10 days which will enable the business community to react if they feel it is appropriate. If at some point, Mr. Chairman, I determine, after discussions with the business community, that they would like to present some formal testimony, I will be in contact with you to see if that opportunity can be afforded.

Generally speaking, I think it is important that we go forward with these hearings, that we examine the law, and that we take such action as appropriate and necessary in order to ensure that we do not allow things to continue which appear to be continuing right now in the business community, and to protect our young people from the dangers and the hazards of the workplace, as well as ensuring that they have adequate time to pursue their studies and to live a normal family life.

Thank you very much for these hearings. I am looking forward to the testimony.

Senator **METZENBAUM**. Thank you very much, Senator Jeffords. I am very happy also to have with us this morning Senator Chris Dodd. Probably no Member of the Senate has done more in connection with legislation pertaining to children than has my colleague from Connecticut. We are very happy to have him with us, and I look forward to working with him, as well as Senator Jeffords and other members of this committee, to move this legislation forward promptly.

Happy to have you with us.

OPENING STATEMENT OF SENATOR DODD

Senator DODD. Thank you very much, Senator Metzenbaum. I apologize to those in the room. In addition to this area of jurisdiction, I chair the subcommittee on the securities industry, and I was meeting with the Mercantile Exchange from Chicago this morning about jurisdiction over stock index futures. So I apologize to you for being a few minutes late.

Let me welcome all of you here this morning to the Senate Subcommittee on Children, Family, Drugs and Alcoholism and the Subcommittee on Labor, of course, which Senator Metzenbaum chairs. I am pleased to be conducting this hearing with Senator Metzenbaum, who has done a remarkable job over many, many years of protecting the working conditions of men and women in this country. In fact, it would be shocking were he not involved in a question involving children in the workplace. I commend him for his efforts, not only in the past but with what he is engaging in here as we look at the workplace, as it affects young people.

It comes as no surprise, as I said, that his response to the reports of increasing child labor violations has been to develop the Child Labor Act of 1990, and I am pleased to join with him in this effort to strengthen the protections for children. I look forward to working closely with him and Senator Jeffords and others.

Our hearing today, as you know, will address an issue that should be a matter of historical curiosity, not the regrettable subject of today's headlines—the exploitation of children in the workplace. Over 50 years ago, we enacted a child labor law to protect children from working at too young an age, for excessive hours, or in hazardous conditions.

Unfortunately, child labor remains a modern day problem. For tens of thousands of children across this country, current law and current enforcement don't provide the necessary protection. Since the mid-1980's, there has been a dramatic increase in the number of child labor violations detected. According to a Government Accounting Office study released in March, the number of children found to be illegally employed reached a level of almost 22,500 in 1989, up from 9,200 in 1983. In one week, this past March, the Labor Department found over 12,500 violations nationwide. Almost half of the businesses investigated were breaking the law. In my home State of Connecticut, the number of illegally employed minors detected in 1989 was five times the number detected in 1983.

These violations are deeply troubling because of the damage done to the individual young people and because of what they say about the future prospects of this generation of America's youth. Tragic examples of exploitation, of injury, and even of death have surfaced recently. Today's witnesses will describe accidents that occurred when 15-year-olds were using equipment they never should have been near. The photographs on easels show under-age children working in sweatshops in New York City. Like 11-year-old Maria Mendez, who was found by a reporter on a Friday morning in January trimming threads from the belts at a Manhattan garment factory, these children remind us of sweatshop scenes in our history books—scenes that we thought we had put behind us in this country.

Equally troubling are studies that document the connection between excessive work demands and difficulties in school. After-school and summer jobs are a time-honored and positive tradition for American teenagers. However if children are too young or hours too long, this employment erodes the child's success at school. That is not a debatable point. That is a fact. Today, a majority of teenagers work while still in school, and many put in long hours. In Japan, by contrast, only two percent of high school students work during the school year.

Researchers from the Universities of California and Wisconsin found that working teenagers have lower grades, do less homework, miss school more often, and enjoy school less than their unemployed classmates. In addition, although teenagers often benefit greatly from skills learned at their jobs, they may be learning negative lessons as well. Increased use of cigarettes, drugs, and alcohol is most common among seniors who work more than 20 hours per week. Putting all this in perspective, the good news is that young people reap the benefits of employment with relatively small amounts of time on the job. But with longer hours, they pay an unintended and unacceptable price.

As we look toward the 21st century, we know that the skills required by our future economy will exceed those demanded today. Any policy that undercuts better education for today's youth is woefully short-sighted. During this same period, the labor force as a whole will shrink, thus creating more pressures on employers to hire young people and, apparently, as we see today, to violate our child labor laws. Given these trends, we must take a fresh look at our child labor laws and their enforcement. Our education and youth employment policies must go hand in hand, helping young people to strike the right balance.

S. 2548, which Senator Metzenbaum and I introduced on May 1st, increases the penalties for violations. It requires that the names of employers violating the laws be posted in schools, and expands the list of hazardous occupations in which youth employment is restricted. Even with such strengthening of the statute, the law will be only as effective as are the enforcement practices. I would hope that the Labor Department's March strike force operation was just the beginning of a sustained increase in investigations, coupled with the administrative strengthening of regulations on child labor. Only if employers take our child labor laws seriously and comply fully will we protect our Nation's youth from tragic and unnecessary losses—whether the loss of good health in an unsafe workplace or the forfeiture of their educational opportunities.

Again, Mr. Chairman, I want to thank you for this particular effort, and again commend Senator Jeffords for his efforts on this behalf. But for those who would suggest, as some have, that we are searching for an issue here, they need only look at the statistics that we are uncovering on an hourly basis, to recognize that we need to move ahead and do something in this area.

I emphasize, Mr. Chairman, the relationship between workplace and academic reforms. Every seven seconds, less than the time that just these opening remarks have taken, an American kid drops out of school, and in many case for economic reasons. When you look at our dropout rates in our inner cities hovering near 60 percent, 33 percent nationwide, and compare them to our chief competitors in the world, with dropout rates of less than one percent like in Japan or West Germany, to cite two principal competitors, it becomes clear that we are burdening these young people. Especially those who are trying to stay in school with the kind of problems associated with child labor laws. We don't have a lot of time to get back on track again. These kids are going to be responsible for leading this country. It is tragic that in 1990 we are talking about child labor laws in this country.

My hope is that we can send this message with these hearings: That we are dead serious about the problem of child labor violations. Employers who violate the law are going to be punished, and punished seriously, if that is what it takes in order to get this back on track again. We are trying to get kids to stay in school and perform better and do the work that is necessary for them to face the 21st century. With the kind of outside pressures being placed on them today, a job becomes more difficult.

So, again, I commend for what you are doing, Mr. Chairman.

Senator METZENBAUM. Well, thank you, Senator Dodd. I might say that I think the country can understand the significance and seriousness that we here in Congress give to this issue by the fact that both the Subcommittee on Labor, which I chair, and the Subcommittee on Children, Family, Drugs and Alcoholism, which Senator Dodd chairs, are working together to move this legislation forward. Quite often, we have a situation where one committee hears testimony, then another, and there are delays. We don't want any delays. We want to move this legislation forward. We are going to work together, and we are going to try to pass this legislation at the earliest day possible.

OPENING STATEMENT OF SENATOR TOM HARKIN

I am pleased that the Subcommittee on Children, Family, Drugs and Alcoholism and the Labor Subcommittee are holding this hearing the Child Labor Act of 1990 today. With the growing number of children in the workforce in both urban and rural communities, we must ensure their safety, by letting employers who violate child labor laws know that we will throw the full force of the law at them to prevent injury and death of our nation's most valuable asset.

Last year, Mrs. Marilyn Adams of Earlham, IA come before the Subcommittee on Children, to share her tragic story of the death of her 11 year old son who suffocated in a gravity flow wagon. She then formed Farm Safety for JUST KIDS to work at the grassroots level to educate other farm families about the dangers in giving children adult responsibilities before they are physically and intellectually able to handle them. She is doing fantastic work in bringing this situation tot he forefront of public debate and making recommendations on how to prevent these tragedies.

I look forward to hearing all the testimony presented today. Again, I want to thank Senators Dodd and Metzenbaum for their tireless efforts, and those of their staff, to protect nation's children.

Senator Metzenbaum. Now we have some witnesses with us this morning who have been victims of the failure to have adequate child labor laws in this country. I will ask them to come to the table: Justin Lowell of Portsmouth, NH; Margaret Kimmel of Washington, DC; and Dr. Philip J. Landrigan, Mount Sinai Medical Center, speaking for the American Academy of Pediatrics of New York City.

Justin, we will be very happy to hear from you at this point.

STATEMENTS OF JUSTIN LOWELL, PORTSMOUTH, NH; MARGARET KIMMEL, WASHINGTON, DC; ACCOMPANIED BY PETER N. MUNSING, COUNSEL; AND PHILIP J. LANDRIGAN, M.D., MOUNT SINAI MEDICAL CENTER, AMERICAN ACADEMY OF PEDIATRICS, NEW YORK, NY

Mr. Lowell. Ladies and gentlemen, my name is Justin Lowell, and I am a 17-year-old who is an A and B student at Portsmouth——

Senator Metzenbaum. Pull the mike a little closer to you.

Mr. Lowell. I am an A and B student at Portsmouth High School in Portsmouth, NH. I spend a good part of my day in the woodshop, and I do enjoy what I accomplish there. Luckily today I can enjoy what I accomplish there because I almost was not able to.

In 1987, I had an injury to my left hand. I started work at the local pizza shop in my local mall. I started out as a dishwasher, and started out pretty well, I guess; you know, washing dishes and eating all kinds of good food, cleaning up at night, and having extra cash in my back pocket. What 15-year-old kid wouldn't like that?

After a week or so, my boss stood me in front of a Hobart dough mixing machine which was almost as tall as I am and told me I was going to learn how to make the pizza dough. He threw a 50-pound bag of flour and some other stuff into a pan big enough that I could sit in, put the mixer in gear, pushed the start button and said, "This is how you make dough, so whenever I tell you to make dough, make dough." That was all the training I got, and he certainly never let on that it was illegal for a 15-year-old kid to use that machine.

I used the machine to make dough a couple of times, and later I was told to go over to the mixer to learn how to grate cheese. All the training I got from my boss was to put the grater attachment on, put the machine in gear, put a piece of cheese in, and use the press to push the cheese into the grater.

On October 10, at about 4:30 or so, I started to work in a frenzy as all the dishes came in from the lunch rush, and every piece of kitchen equipment imaginable was brought in for me to wash. That alone took me about an hour to do, and at about 25 minutes before 6 o'clock, my ending time, my boss told me to cut cheese. Cutting cheese took usually about 45 minutes, but I only had 20 minutes to do it.

I dropped everything else I was doing and set up the machine to cut cheese. At about 5 minutes to 6 or so, I had just finished cutting the last block of cheese, and I started to clean the very edge of the grater chute with my left hand while holding the cheese press up with my right hand. The manager came over and said something to me. It startled me and I turned to my right and dropped the cheese press out of my right hand. That knocked my left hand into the rotating blade of the cheese grater.

What happened after that is still impressed in my mind like it was yesterday.

I felt my hand being chopped up, like the cheese being broken up itself. I realized what was happening, and I pulled my mangled left hand out of the grater. I started screaming for help, and the next thing I knew I was running down the service corridor with my left hand wrapped up in an apron, out to my father's truck where he was waiting to pick me up from work.

I was rushed to the hospital in about 5 minutes, and then into the triage unit, and from there into surgery. When I woke up in the morning, I found out I was a very lucky kid. I almost lost three of my fingers. My doctor told me I had 788 stitches in three of my fingers, fused knuckles in my index and long fingers, and that I would never be able to write again, since I am left-handed, or play football or baseball or even make a fist again. When you are 15 and lying in the hospital and you are hearing this stuff, you feel almost like you are worthless, and nothing can ever change it again.

But after my accident, I went through a year of hell with painful therapy. I found out that I would not be able to return to playing football for an organized team, which I had done for 5 previous years and loved with all my heart. I learned that I wouldn't be able to do a lot of things. I couldn't throw a baseball properly, throw a football properly, open a pop-top can, hold a knife to cut meat, pick a coin up off a flat surface, and many other normal, everyday things.

I have adjusted to my disability now and am doing well, but the thing I really don't understand about the whole thing is: How come the accident couldn't have been prevented?

From what I know now from the New Hampshire Department of Labor, unless you are over the age of 18, you are not even allowed to really touch any machinery or, basically, even look at it. I was never told to stay away from the machine. Instead, I was ordered to use it. And I was never instructed in proper safety procedures.

I believe my accident could have been prevented, and I ask that you do everything possible to help prevent similar injuries to other young people.

I thank you for this opportunity to be here today. I hope my story will protect others from injury.

Senator **Metzenbaum**. Thank you very much, Justin.

I think what we will do, if it meets your wishes, is hear the other two witnesses, and then we will go to questions. Mrs. Margaret Kimmel of Washington, DC. We are glad that you are with us, but sad about the reason for you to be with us.

Ms. **Kimmel**. My name is Margaret Kimmel, and I live in Washington, DC. On October 14, 1987, I was called and told that my son, Bernie, had been in an accident. I rushed to the hospital where I found Bernie in intensive care.

He had been crushed when the forklift he was assigned to operate after school hours when it turned over on its side. Bernie was 15 years old.

His chest and stomach had been crushed, and the doctors performed an operation to repair what they could. He struggled to live but died the night of October 15, 1987.

The forklift that killed Bernie did not have a "safety seat," designed to protect the operator, even though this type of seat was available for that type of forklift. I understand that the manufacturer had equipped some trucks with those seats, and there have been no deaths on those trucks because the driver stays with the truck if it turns over.

Bernie had not been taught how to use the truck. He had not been taught that if the truck flips over, you have to stay with it rather than jump.

Because there was no training, because there was no safety equipment—the truck didn't even have a working gas pedal, and the brake pedal was worn slick—this was an accident waiting to happen. It happened to Bernie, at age 15.

When they investigated his place of work—the Seven-Up Bottling Company of Elkton—they found many minors employed in loading and unloading operations where they should not have been. They found many other violations, including safety code violations. For all the many violations, they received a slap-on-the-wrist fine.

Because Bernie did not support us, because he had no dependents, Seven-Up claims that its only liability is for the simple death benefit for a worker that does not support others—approximately $1,200. We are fighting this, but I understand that this is the way it is in most States. It is cheaper to kill the younger worker than to injure him.

Part of the problem is that employers do not know how deadly some of the vehicles are. Whether Seven-Up knew, I don't know. What bothers me is their reaction, not to try to stop these injuries but to blame my son by saying he was going too fast, when there wasn't even a properly working gas pedal he could operate.

I am not saying that work for teenagers, even after school, is bad. In Bernie's case, I think work was helping him with self-discipline and giving him a sense of maturity. For many families, it is also necessary financially. Heavy equipment attracts boys; they will hunger to use it. That is human nature. They have been taught to like machines and they do. It is also a sign of manhood, and they want that too.

What is needed, then, are better regulations of machines in the workplace, including real training for employees and proper safety equipment, and regulations that prevent boys from being sent to do a man's job when it is dangerous.

Bernie was big for his age, but he was 15. At age 15, you just don't have the life experience to handle dangerous heavy equipment.

Stiffer fines are also needed. A slap-on-the-wrist fine that is imposed when you have an inspection, that rarely occurs because there aren't enough inspectors to go around, is not going to deter any large company. For the small company, there will be no deterrent because a small fine won't generate the word-of-mouth warning that gets down to the small employer.

Even after Bernie died, the company had continued on its way. By the time the OSHA inspector got there, there were still underaged boys working there. The forklift still had no safety seat, and no working gas pedal. To me this shows that nobody pays attention, even when a boy has lost the rest of his life.

It seems to me that society loses twice. They lose what the child would have been and, because the death is blamed on the child worker, nothing is done to prevent deaths and injuries in the future. So he lost his life for nothing. They robbed him, even after he died, of his death having some meaning.

So I hope that you will let his life—and death—signify. Let it mean something. Let us say that Bernie Kimmel did not die in vain, another child's cross in the graveyard of workplace accidents, who after his death has blame put on him to avoid looking at the responsibility of the employer and the machine, a death which is robbed of the dignity of having made a difference so others won't be crippled or die.

Next Monday, Bernie would have been 18 years old.

Thank you.

Senator METZENBAUM. Thank you very much, Mrs. Kimmel. I am sure I speak for the entire committee when I say that we share your loss and are very grateful to you for having the courage to be with us this morning. Your testimony is very helpful to us.

Senator METZENBAUM. Dr. Landrigan.

Dr. LANDRIGAN. Thank you, Mr. Chairman. Good morning, Senators.

I am Philip Landrigan. I am a pediatrician. I am chairman of the Department of Community Medicine at Mount Sinai Medical School in New York City. For the past year, my colleagues and I in our department have been conducting evaluations of the health hazards of child labor in New York State. I would like to tell you about those studies this morning and the findings that we are making. I would like to present this testimony both on my own account and also on the account of the American Academy of Pediatrics.

I will start off by reiterating some of the statistics that you have heard from others but that are still important to be said again. In 1988 there were approximately four million American children under the age of 18 years that were gainfully employed. These include children in all sectors, children working in construction, children in sweatshops, children working in the suburbs for lawn companies and newspaper delivery firms, children working on the farm.

Of course, it needs to be said, as you have said, as my fellow witnesses have said, that work, when it is properly supervised and properly presented to children, offers very definite advantages. It teaches a sense of responsibility.

I think it is important, though, in the dialogue that you will undoubtedly have with the business community over this bill, to distinguish between work which is properly conducted and properly supervised on the one hand, and exploitative work on the other.

There is a world of difference between the two. It is a distinction between the responsible employer and the irresponsible employer that can't be neglected.

Now, in our studies of child labor in New York State, I would like to give you some of the salient statistics which I think illustrate the extent of the problem in just a single State. In 1988, which is the most recent year for which we have complete data, 1,333 awards were made by the New York State Worker's Compensation Board to children under the age of 18. I emphasize that these were awards that were actually made, where a finding was made that the injury was work-related claims are simply filed. Ninety-nine of these awards were to kids under the age of 15 years; 541 of the total number of awards were for permanent disability, and 6 were for deaths. Among the injuries that we saw were: chemical burns, thermal burns, lacerations, fractures, head injuries, amputations, and what is termed "injuries of multiple body parts."

Each year for the past decade in New York State, there have been worker's compensation awards made to more than 50 children under the age of 13 years.

Senator **Metzenbaum**. Under the New York law, what is the range of these awards?

Dr. **Landrigan**. I don't know the dollar amounts, Senator. I don't have that.

Finally, over the past decade, there have been 35 deaths in working children in just our State.

Incidentally, we are uncovering more and more information, even though it is still preliminary, that these numbers that come through worker's compensation are very definitely an under-count of the true reality. There are many barriers to cases and deaths being reported to worker's comp. Just recently, in a preliminary review of the State death certificate file for 1988, we found that in that year there had been six deaths to working children reported on the death certificates. Only one of these was also recorded in a worker's compensation file. In other words, there appear to have been a total of 11 deaths in working children, 6 recorded in the death certificates and 6 recorded in worker's comp. with only one overlap recorded in both files. I suspect the problem is like an iceberg. The more we look, the more we are going to find.

We have been collecting reports over the past year working with our collaborators in the New York State Department of Labor and the State Department of Health on episodes of injury and illness and toxic exposure in working children. We have gotten reports of amputations in pizza shops, crush injuries among children in construction, burns and electrocutions in children in fast food. There have been fatalities, well-publicized, of children delivering pizza, trying to beat the clock. There have been children crushed in trench cave-ins, digging foundations. In December 1988, just before Christmas, an 11-year-old boy in New York City was torn apart and crushed to death in a supermarket box-crusher, and the witness was a 9-year-old boy working in the same establishment.

Garment industry sweatshop work still is prevalent in New York City, and children are still employed. These pictures that are provided to the committee by Danny Steele, a photographer with whom we have been associated, are graphic witness to the fact that sweatshops are still alive and well in New York City in 1989 and 1990. These pictures show many of the features that we have come to see in sweatshops: numerous cords coming out of plugs, scrap materials all over the place. You can't see it here, but not unlike the Triangle Shirtwaist fire, not infrequently the doors in these sweatshops are locked to keep inspectors from coming around the back way. The possibility of tragic fires with deaths of children is every bit as real a possibility today as it was when the Triangle fire occurred more than a half century ago.

It is important that I emphasize the hazards to children working in agriculture. Children in agriculture are exposed to some terribly powerful machinery: tractors, power take-off equipment, silos. And there have been numerous reports in the popular press and the pediatric literature of children who have lost their lives on the farm. Also, from our own surveys in New York State in upstate areas, we have documented what we previously heard anecdotally: that a very high proportion of children working on farms in our State are exposed to toxic concentrations of pesticides. We have numerous reports of kids going back into the fields to pick fruits and vegetables when the fruits and vegetables were still wet from pesticides applied just a few hours before.

There is another aspect of the problem that also needs to be mentioned here, and that is the problem of industrial homework. Under the past administration, the U.S. Department of Labor liberalized some long-standing regulations that for many years had limited industrial homework, and therefore allowed people to do things like knit caps in their homes. Although industrial homework is described in the language of freedom of choice and in the language of choosing one's place of work, the dark side of industrial homework is that it leads all too easily and directly to the employment of children. When work is brought into the home, it is almost a truism that, particularly in poor families where the cash is needed, the children join in the enterprise.

I would almost consider the regulations on industrial homework to be a litmus test of the U.S. Department of Labor's willingness to truly enforce child labor law. If they are willing not to relax the ban on industrial homework, then I would say that the intention that was manifested by those well-publicized sweeps last month is something real. If, on the other hand, they do the occasional sweep but at the same time relax the bans on industrial homework, then the whole situation is a charade.

I would like to conclude my testimony by expressing my support and the support of the American Academy of Pediatrics for your bill, S. 2548. The only minor fault that I would find in the bill is that it does not extend its provisions to protect children working on the farm. I would encourage you to reconsider that aspect of the bill, but overall I think that this bill—indeed, it is my professional opinion as a pediatrician that this bill, with the strong disincentives that it provides to exploitative child labor, constitutes a powerful step in the proper direction.

Thank you.

[The prepared statement of Dr. Landrigan follows:]

PREPARED STATEMENT OF PHILIP J. LANDRIGAN, M.D., AMERICAN ACADEMY OF PEDIATRICS

Good morning, Mr. Chairman. My name is Philip J. Landrigan, M.D. I am a pediatrician and an occupational physician. I am Professor and Chairman of the Department of Community Medicine and also Professor of Pediatrics at the Mount Sinai School of Medicine in New York City. Prior to my arrival at Mount Sinai five years ago, I served as Director of the Division of Surveillance, Hazard Evaluations and Field Studies of the National Institute for Occupational Safety and Health (NIOSH), and from 1984 to 1988 I was Chairman of the Committee on Environmental Hazards of the American Academy of Pediatrics.

I am here today on behalf of the American Academy of Pediatrics, an organization of 38,000 member pediatricians dedicated to promoting the health of infants, children, and adolescents.

The Academy wishes to express its appreciation to you, Mr. Chairman, and to the Subcommittees for holding this hearing on the problems of child labor and the exploitation of youth in the workplace.

Childhood employment is widespread in the United States. In 1988, approximately 4 million American children (under age 18 years) were gainfully employed. Legally employed children include the urban high school student working in a fast food establishment, the suburban 11-year-old delivering newspapers and the rural child working on a neighbor's farm. Illegal child labor is also widespread. Four-year-olds "help out" in factory sweatshops passing fabric between their mothers' sewing machines to increase the speed of piece work, while 14-year-olds work on machinery in belt and garment factories, bakeries and butcher shops. Children do industrial homework on school nights, and they pick vegetables in fields still wet with pesticides.

While employment offers numerous advantages to children through development of responsibility, discipline and teamwork, child labor can also threaten education and development. One of the principal hazards of child labor is interference with school performance. Employed children often have inadequate time for school homework and increased fatigue on school days.

Injuries and illnesses can also be the consequences of child labor. Because I am a pediatrician, I would like to discuss these issues of work-related injury and illness with you today. The risks of injury, illness, and toxic exposure associated with child labor appear to pose significant hazards to the health of our nation's children, but those hazards have only begun to be explored.

Recently, the GAO released data showing that 33 states had reported a total of at least 48 minors killed and 128,000 others injured in work-related accidents during 1987 and 1988. As technology has changed, so have the hazards that are present in the workplace. Machinery has become more sophisticated, and substances used for cleaning, maintenance or machine operation may often be more toxic than those used in years past.

Children are known to experience a wide variety of toxic exposures at work, including formaldehyde and dyes in the garment industry, solvents in paint shops, pesticides in agriculture and lawn care, asbestos in building abatement, and benzene in pumping unleaded gasoline.

In an effort to develop more substantial data on the health risks of child labor, I have been working with a colleague Dr. Susan H. Pollack of the Mount Sinai Medical Center in Manhattan, studying the medical impact of child labor in New York State. This work is supported by grants from the William T. Grant Foundation and the National Institute for Occupational Safety and Health.

In 1986, the most recent year for which complete information is available, data from the New York State Worker's Compensation Board indicate that 1,333 awards for work-related injury and illness were made to children under the age of 18 years; 99 of these awards were to children under the age of 15 years; 541 (41 percent) of these awards to children were for permanent disability and 6 were for work-related deaths. In 1986, reported injuries to working children in New York State included chemical burns (12), thermal burns (108), lacerations (436), fractures (238), head injuries (109), amputations (21) and injuries of multiple body parts (87).

Another important statistic from New York State is that each year for the past decade more than 50 children under the age of 13 years have received workers compensation awards for injuries they suffered at work.

Additionally, there were 6 deaths among working children in New York State last year and 35 over the past decade. These deaths occured in grocery stores, restaurants, farms and newspaper deliveries.

Anecdotal reports describe injuries to children working on farms, in fast food restaurants and grocery stores, delivering pizzas, and working construction. Many children suffer minor lacerations while others have lost limbs in farm machinery accidents, suffocated in grain silos, sustained burns and been electrocuted in fast food restaurants, had arms amputated in butcher shops, become highway fatalities while delivering pizza under time pressure, and been crushed in improperly-built construction trench cave-ins. In December 1988, an 11-year-old New York boy was torn apart and crushed to death when he became entangled in a box-crusher in a Bronx supermarket.

Garment industry sweatshop work is an increasingly common source of employment for children in urban areas such as New York City. Hazardous conditions are created by blocked exit doors, combustible materials, inadequate ventilation, overloaded electrical supplies and exposed wires.

Adding to the problem of child labor are the health hazards associated with "industrial homework". Under the Reagan

Administration, the Labor Department began liberalizing long-standing regulations limiting industrial homework. Although industrial homework is described frequently in the language of free enterprise as part of the freedom to choose one's place and time of work, nevertheless the dark side of industrial homework is that it leads all too easily to the work of children. Indeed, it is a truism among students of American labor that industrial homework can go on for long hours and occur under adverse conditions of light, space and ventilation. At the very least, such work impairs a child's development and education, and at the worst, it causes injury and illness. Moreover, enforcement is simply not a feasible option in the area of industrial homework. How can Occupational Safety and Health Administration (OSHA) inspectors or Wage and Hour inspectors realistically be expected to evaluate hundreds or thousands of home workplaces? It simply cannot be done. The Department of Labor acknowledged its inability to protect children from these hazards and declared industrial homework illegal in 1942. A decision to allow such work is not a step forward for children.

Despite the challenge before us, I'm encouraged by U.S. Labor Secretary Elizabeth Dole's recent statement promising "immediate action to step up enforcement" of the laws, larger penalties for violators and a review of all regulations governing children who work. It won't be easy, since the U.S. Labor Department's Wage and Hour Division is woefully understaffed and there are not enough OSHA inspectors today to adequately police even established factories in the United States. Nevertheless, the Secretary's bold and courageous words indicate a change in recent Administration attitude and a step in the direction necessary for the protection of America's children.

In addition to the efforts of the Department of Labor, the AAP applauds the efforts of Senators Metzenbaum and Dodd with the recent introduction of their child labor legislation, S.2548. We approve of the bill's aim to strengthen child labor law enforcement schemes. Our only concern is that this bill does not protect the many children working on farms, and we strongly believe this is an area that needs to be addressed.

To help prevent injury and illness in working children in the United States we must:

o Develop better data on the extent, nature and severity of child labor;

o Educate our nation about the hazards of child labor;

o Review existing laws and regulations to see if improvements can be made;

o Discontinue federal efforts to relax certain labor regulations that protect children at work, particularly the regulations limiting industrial homework; and,

o Enforce existing federal and state laws and regulations strictly, with adequate levels of inspection personnel.

Thank you for helping to focus renewed attention on the issue of child labor and for bringing a new understanding of the task before us. I shall be glad to answer any questions.

Senator **Metzenbaum**. Thank you very much, Dr. Landrigan.

Mr. Lowell, Justin, after the accident, did anyone tell you you shouldn't have been operating or handling the cheese-grating machine?

Mr. **Lowell**. No, sir.

Senator **Metzenbaum**. Were other young teenagers working there besides yourself?

Mr. **Lowell**. Yes.

Senator **Metzenbaum**. Were they involved in taking the machine apart, cleaning it? Would they do the same kind of work you did?

Mr. **Lowell**. Yes, they did.

Senator **Metzenbaum**. Do you know whether the employer was ever fined or punished?

Mr. **Lowell**. Not that I know of.

Senator **Metzenbaum**. Did the employer ever say anything to you after the accident?

Mr. **Lowell**. No, he didn't.

Senator **Metzenbaum**. Never came by to see you or anything?

Mr. **Lowell**. No.

Senator **Metzenbaum**. Thank you.

Mrs. Kimmel, before the accident, what type of work did you think that Bernard was doing at the plant? Did you know it was illegal for him to be operating a forklift?

Ms. **Kimmel**. I knew it was illegal for him to be operating a forklift. He was supposed to have been loading trucks by hand.

Senator **Metzenbaum**. He was what?

Ms. **Kimmel**. He was supposed to have been loading trucks by hand. That means taking the cases and putting them on the trucks. There would have been no violation there because he wasn't operating machinery.

Senator **Metzenbaum**. I see. But you did know that he was operating the forklift?

Ms. **Kimmel**. No, sir.

Senator **Metzenbaum**. You did not know?

Ms. **Kimmel**. No.

Senator **Metzenbaum**. At what time of day did the accident happen?

Ms. **Kimmel**. What do you mean by what kind of a day?

Senator **Metzenbaum**. What time?

Ms. **Kimmel**. Time?

Senator **Metzenbaum**. Yes.

Ms. **Kimmel**. 8:30 p.m.

Senator **Metzenbaum**. Did you know that it was a violation of law for him to be working at that late hour?

Ms. **Kimmel**. No, sir.

Senator **Metzenbaum**. Was the employer ever fined or punished?

Ms. **Kimmel**. They were fined approximately $3,200 for various violations when OSHA went in.

Senator **Metzenbaum**. And the only benefits, the only financial civil responsibility, was something like $3,200?

Ms. **Kimmel**. That is what I have been told. I don't know. I have never seen a penny of it, and I have never had any verification.

Senator **Metzenbaum**. You have never seen any of it?

Ms. **Kimmel**. No, sir.

Senator **Metzenbaum**. I wonder if your lawyer would want to clarify. I know he is sitting behind you. Is there litigation pending?

Mr. **Munsing**. Yes, sir. We do have a case against the employer. It is kind of a test case because, unfortunately, most States have what is called a worker's compensation bar. This prevents the family from suing the employer directly. In this case, we are claiming that, for a number of reasons—violation of the child labor laws being one—they should not be entitled to the compensation bar. However, this bar exists in all States that I know of, and it is a problem. There is little economic deterrent when an employer unfortunately creates conditions that result in the death of a child.

Senator **Metzenbaum**. Thank you.

Dr. Landrigan, do you think the problem of child labor has lessened, remained constant or increased in the past decade?

Dr. **Landrigan**. My impression is that it has increased substantially. But having said that, I will hasten to add that the record systems, the data base that one would truly like to document that, is very lacking. Neither on the Federal level nor the State level or there good systems that really allow us to monitor trends.

I think the best information on trends is provided by the annual demographic file. It is a survey that is done each year by the Census Bureau in collaboration with the Bureau of Labor Statistics of the U.S. Department of Labor. That survey shows that the number of working children is increasing.

Senator **Metzenbaum**. How do you account for this increase in what we think is a civilized world? We think we are becoming better educated and hopefully more concerned. How do you account for the fact that there is a shortage of working people available to work? How do you account for the fact that more and more child labor is being used?

Dr. **Landrigan**. Well, Senator, I think it is reflects a reconvergence of some of the same factors that pertained 200 years ago at the beginning of the industrial revolution.

First of all, at least from the Northeast, in our part of the country, there is very low unemployment. There is a need to bring more workers into the labor market.

Second, we have, at least in our part of the country, enormous numbers of immigrants, not all of them of legal status—from Asia, from Ireland, from Latin America. Because these people and their children are of dubious legal status, they are ripe for exploitation. They are unlikely to complain unless the exploitation is so severe that complaining is the only recourse left.

Finally, the posture of the previous administration can't be ignored. The previous administration was relaxed on business. It took OSHA inspectors out of the field. It reduced the number of actual walk-through inspections of places of business. I think that posture sent a message, to at least the less scrupulous members of the business community, that such violations of child labor, if not okay, would at least be tolerated.

Senator **Metzenbaum**. You mentioned the nonapplicability of the child labor laws to the field of agriculture. Do you have any idea of the extent percentage-wise—a guesstimate, if you don't have any actual figures—of what percentage of all the children employed below the legal age in this country are employed in agriculture?

Would you say 10 percent of them are in agriculture, 20 percent, 40 percent? What would be your guesstimate?

Dr. **Landrigan**. I don't have precise figures, but in our State the approximate figures are in the range of a third or 40 percent.

Senator **Metzenbaum**. A third to 40 percent in agriculture. And your State is New York.

Dr. **Landrigan**. That is right, which has big cities but also lots of rural areas, upstate of course.

Senator **Dodd**. Could I just ask one question on that point? Are these children working in a family environment rather than going out of the family environment to work for an agribusiness? Which is it?

Dr. **Landrigan**. It is both, Senator.

Senator **Dodd**. Which is the predominant of the two?

Dr. **Landrigan**. I don't have precise figures on that. But looking at the injuries and accidents where we do have reasonable data, at least on those that have been reported to us, it breaks down roughly half and half, family farm versus working for money. Not necessarily for agribusiness, for huge companies, but at least working for pay, for a neighbor or for some agricultural firm in the neighborhood.

Senator **Metzenbaum**. Do you think that if we were to apply child labor law to agricultural workers, that there ought to be a distinction between children working as a part of the family unit and children working for someone else?

Dr. **Landrigan**. I think it stands to reason that there would have to be. But I would argue that there are some forms of employment that are so dangerous, such as working with power take-offs on farms——

Senator **Metzenbaum**. With what?

Dr. **Landrigan**. Power take-offs, which are incredibly powerful devices that transfer power from the drive shaft of a tractor to farm equipment. Some of these pieces of equipment are so incredibly powerful, so unguarded, that the potential to cause serious damage—amputation, crush injuries, twist injuries to children is so profound that there is a case to be made for putting an absolute ban on at least kids under the age of 16 working with that kind of equipment either on a family farm or working for a company.

Then for other types of work, I think that there may be a case to be made for distinctions between working for profit and working on the family farm. It is almost one of these situations where you would have to sit down with experts in the field—I am not an expert on agriculture, certainly—and go over it on a case-by-case basis.

Senator **Metzenbaum**. Thank you very much.

Senator Jeffords.

Senator **Jeffords**. Thank you, Mr. Chairman.

First, Mrs. Kimmel, I can assure you that Bernie did not die in vain, and that this committee will do something to ensure that we at least reduce the risk of such occurrences as occurred to your son.

Ms. **Kimmel**. That would be good.

Senator **Jeffords**. I deeply appreciate your coming here today. I know how painful it must be.

Justin, certainly your testimony is also something which will weigh very heavily with this committee. Again, we will make sure that we do whatever is possible to ensure that such things do not occur.

Dr. Landrigan, I would like to inquire a little bit further—well, first, let me go back to your lawyer, if I may, Mrs. Kimmel.

It is my understanding that the death benefit, presuming that the workmen's compensation bar applies, is $1,200. Is that correct?

Mr. **Munsing**. Approximately that, and that is true of most States. What happens is that the younger worker—it can be a child, it could be a young lady or man in their 20s—very often has no dependents. They don't have any dependents. The death benefit essentially is a funeral benefit, so they are much better off killing the worker than maiming him.

Senator **Jeffords**. Then, also, with respect to the law in your State, does that bar apply if it is gross or willful negligence?

Mr. **Munsing**. Yes, sir. The comp bar is pretty much absolute. The best example I can give you is that it was held to apply recently when a company, a very large, knowledgeable, sophisticated company, knowingly exposed its workers to asbestos. The company had sent them for physicals, knew what the physicals said and did not tell them they had asbestosis. The company allowed them to continue to be exposed. The court said that it may be horrible conduct, reckless, call it whatever you will, but it did not breach the comp bar. The comp bar is virtually impenetrable.

That is true in about every State in the Union. I think there are two States in the Union where there is not a bar or where recklessness will allow the bar to be taken down. But that is it. Just two States.

Senator **Jeffords**. Thank you very much.

Mr. Chairman, I hope at some point we will have a chance to look into these kinds of situations under workmen's comp that are just an incredible contrast with tort law, with millions of dollars being awarded for similar situations, and yet these bars occurring in workmen's compensation.

Dr. Landrigan, there are several different types of violation which can occur, and a good many of them, for instance, are curfew violations, some are too long a period of time during 1 day, and others too many hours during the week, and then dangerous working conditions. One area that I am concerned about when we get into this legislation is that if we just take the curfew, for instance, which I believe is 7 p.m. now, back when these laws were passed originally we were talking mostly about factories. Now we are talking probably most about fast-food situations.

Do you think there is a significant reason from the perspective of pediatricians for, say, a 7 o'clock curfew versus an 8 o'clock curfew for 14- and 15-year-olds? Is there anything that is significant about that at a fast-food shop, for instance?

Dr. **Landrigan**. Well, Senator, I was on a committee which advised the Department of Labor in New York State over the past couple of years where we reviewed the State laws, and the curfew laws were one aspect that we looked at.

We all agreed, everybody that was on that committee, that the basic premise underlying the curfew regulations has to do with getting the children home in time so that they can do their homework. The principal job of children is to be students, to learn so that they can become fully productive, fully participatory members in the adult workforce. The argument, then, is that if kids are working until 8 o'clock or 9 o'clock, at least on those nights when there is school the next day, that that late work defeats the ability of the child to do homework.

The compromise, therefore, that we worked out in New York was that we would allow children to work until, it was either 8 or 9 o'clock on Friday and Saturday evenings, because of the obvious fact that there is no school on Saturday and Sunday morning, but that on school nights it must end at 7 o'clock.

Senator JEFFORDS. I understand. Now, as far as the number of hours per day, I am not sure just what the limit is at this time. Is there some number of hours that you feel that is too long if you are in school, to work 3, 4, 5 per day?

Dr. LANDRIGAN. Well, figure most kids are in school from 8 or 8:30 in the morning until 2 or 3 in the afternoon, so that by the time they finish school, they have already put in a minimum of 6 hours, not to speak of the time getting to and from. So I would think that anything more than perhaps 3 hours work beyond that would be an upper limit. If a child doesn't get out of school until 3, allowing some time to get from school to the place where he works or she works, then by 6:30 or 7 o'clock, the child will have put in 3 or 3½ hours. In my opinion, that is quite enough.

I, myself, don't really look forward to going home with a full briefcase after 10 or 11 hours in the office and faced with the prospect of having to do some homework, and I can't imagine that it's any easier for a 14- or a 15-year-old high school kid.

Senator JEFFORDS. As to the number of hours per week, assuming a child is in school, 14, 15?

Dr. LANDRIGAN. Again, it has to be limited. I would have to recheck the statutes. I come at it from the medical side not the legal, but clearly there have to be limits.

Senator JEFFORDS. Trying to get at whether we should examine this with respect to the change of our society over these number of years, and you are not talking as much about—well, you are to a certain extent—sweatshops, but also the different types of occupations.

Dr. LANDRIGAN. Well, one trap I think it is important we not all fall into in our thinking is that somehow suburban fast-food outfits, because they are physically attractive, are fundamentally different from the sweatshop environments that you see here. Sure, they look different. Sure, they have green plants around. But if kids are working 6 or 8 hours on a slippery floor with unprotected equipment, that environment, despite the cosmetically nice appearance, is every bit as dangerous as a factory floor.

Senator JEFFORDS. Thank you, Mr. Chairman.

Senator METZENBAUM. Senator Dodd?

Senator DODD. I thank all of you again. First of all, I want to join Senator Metzenbaum and Senator Jeffords in particularly expressing our gratefulness to both of you, Justin and Mrs. Kimmel, for your willingness to be here today. I hope you both know how much we appreciate it. It is not easy to come and testify before a Senate committee and talk about something, in your case, Mrs. Kimmel, so pointedly personal. I remember my mother saying that her worst fear was that she would outlive her children. To listen to you and what you have been through and then to be here today is something that I deeply, deeply appreciate. As hard as it is to do, with all due respect to the statisticians and the experts and the professionals who contribute significantly, frankly it is your willingness to be here and your willingness to share with us your personal experience that will have a greater effect in many ways than all the data and all the numbers and all the cases that are talked about in the abstract. So you are accomplishing a great deal, and as Senator Jeffords said, don't you ever doubt for a single moment whether or not Bernie is being remembered. Hopefully we will reduce substantially the number of Bernie's that this world and this country experience. This applies to you, Justin, as well. You are a very articulate young man. If I were living in New Hampshire, I would be very nervous about a guy like you running for public office. You may not have a good left hand, but you have a good set of lungs.

Mr. Lowell. Thank you.

Senator Dodd. I appreciate your being here as well.

I was curious, Justin, about the employer. I was told that he was cited by New Hampshire Department of Labor. They did go after the restaurant owner. Do you know that to be the case, and that he skipped town?

Mr. Lowell. Through my lawyer, I didn't hear of them being fined by OSHA or something like that.

Senator Dodd. He was cited though, wasn't he?

Mr. Lowell. From what you have just told me, I guess so.

Senator Dodd. I am told that he was cited by the Department of Labor in New Hampshire. They do have child labor laws there, and that he skipped the State.

Mr. Lowell. He did do that.

Senator Dodd. And so they weren't able to have jurisdiction over him in terms of fining him.

Mr. Lowell. Right.

Senator Dodd. And that is the problem. How long did you work for this fellow?

Mr. Lowell. Approximately a month.

Senator Dodd. Yes, a very brief amount of time.

Mr. Lowell. Yes.

Senator Dodd. In your view, if the employer had known that there was a $10,000 fine, that he might do time in jail causing an injury like yours, do you think he would have put you on that machinery?

Mr. Lowell. I do believe he would have anyway because he was too lazy to do it himself.

Senator Dodd. So basically our law isn't going to work.

Mr. Lowell. Not by his standards.

Senator Dodd. Well, that is encouraging. [Laughter.]

Mr. Lowell. Sorry.

Senator Dodd. Let's go home, Howard.

Well, we will have to make it higher in New Hampshire, that is all.

Mrs. Kimmel, you said that you knew there were other young people working where Bernie was working. Could you elaborate on that a bit, please?

Ms. KIMMEL. Well, there were 14- and 15-year-old boys.

Senator DODD. How many were there?

Ms. KIMMEL. Well, the night that I went there, there were five of them.

Senator DODD. All working at night?

Ms. KIMMEL. They were all working at night. It was after 8 o'clock.

Senator DODD. Had there been any other injuries that you know of at that particular facility?

Ms. KIMMEL. Not that I know of. I believe it was the first accident they have had.

Senator DODD. Dr. Landrigan, my colleagues have asked most of the pertinent questions for you. I was interested when you were talking about the work that gets done, that homework, if you will, in these cottage industries. You sort of passed over that. What sort of work are children doing in that home environment that causes you such concern?

Dr. LANDRIGAN. Well, legally, they are doing none. But the type of work that gets done in homes, in which it has been documented time and again that children participate illegally, are such things as jewelry assembly, knitting ski caps and other outerwear, and electronic assembly—putting together car radios and radar detectors in homes.

What has gone on here is that over the past four or 5 years, the U.S. Department of Labor has basically been relaxing regulations that have been put in place 40 or 50 years ago under the Fair Labor Standards Act to restrict industrial homework. And those rates were put in place precisely because it was recognized in the 1940's and 1950's that industrial homework led inevitably to child labor. And so the laws were clamped down.

What the U.S. Department of Labor has been arguing these past few years is that they have enough inspectors to adequately enforce the situation of industrial homework, and thereby prevent child labor. I say and the American Academy of Pediatrics says that that position is just not borne out by the facts. The Department of Labor has decreased the number of OSHA inspectors, decreased the numbers of wages and hours inspectors; and with the current diminished workforce, it is ludicrous to think that they can make evening raids on homes to discover kids at the sewing machine. It simply doesn't add up.

The only way to deal with the problem is not to liberalize the regulations, to keep them in place to prevent homework, and thereby to prevent child labor in the home.

Senator DODD. Let me ask both of you—and, again, Mrs. Kimmel, I think Justin was saying that he had an employer who was particularly egregious in his responsibilities. Obviously, the question is whether or not increased fines and the possibility of jail sentences is going to have a deterrent effect on those who might employ young people and put them in dangerous situations or employ them in hours that would be illegal. In your view, is stiffening the fines and raising the prospect of incarceration going to have a positive impact, along with enforcement? Obviously, assuming we have got the laws that are going to be enforced.

Ms. **Kimmel**. As long as it is enforced, I believe it will help, because most of your employers are honest people.

Senator **Dodd**. How about you, Doctor?

Dr. **Landrigan**. I would agree. I think that the distinction I made before between honest, decent business people and exploitative business people is a real distinction. There may be a few exploiters that are going to flout the law, but I think that a good, stiff law will make a strong impact on the majority of employers.

Senator **Dodd**. Mr. Chairman, thank you, and thank you all very much.

Senator **Metzenbaum**. Thank you. I want to thank this panel. Your testimony has been extremely helpful. I would like, Mrs. Kimmel, if your lawyer would be good enough to identify himself for the record.

Mr. **Munsing**. Peter Munsing of Reading and Spring City, PA.

Senator **Metzenbaum**. You might leave your card with the court stenographer, if you would, please.

Thank you very much. We appreciate your being with us.

Our next witness is William C. Brooks, assistant secretary for Employment Standards, the Department of Labor, accompanied by Robert Davis. Happy to have you with us, Mr. Brooks. We are also very pleased to have Mr. Robert Davis, the Solicitor of Labor, with us again this week. We can try to figure out something to bring him back in next week.

STATEMENT OF WILLIAM C. BROOKS, ASSISTANT SECRETARY FOR EMPLOYMENT STANDARDS, U.S. DEPARTMENT OF LABOR; ACCOMPANIED BY ROBERT P. DAVIS, SOLICITOR OF LABOR

Mr. **Brooks**. Senator, before beginning my statement today, I want you and the committee to know that I am concerned about the experiences that these witnesses before me have had. And as I will tell you in a moment, we are committed to enforcing child labor laws in the Department of Labor. And with Senator Dodd, Secretary Dole and I are dead serious about doing something about reversing this trend that we see in the country.

Before giving my summary remarks, I request that my full statement be inserted in the record in its entirety.

Senator **Metzenbaum**. Without objection, so ordered.

Mr. **Brooks**. Thank you for the opportunity to be here this morning to discuss the serious and complex problem of increased child labor violations which is of great concern to both subcommittees, Secretary Dole and myself. In addressing this problem, the Department is committed to communicating a clear message to the other three principal players—parents, educators, and employers—that our first priority must be the education, health and safety of America's children. However, Secretary Dole and I do not want our firm and fair enforcement to in any way suggest that we are opposed to our teenagers participating in a positive work experience in a safe environment.

I am proud of our achievements in the enforcement area under the leadership of Secretary Dole. What you are witnessing at the

Department of Labor is a cross-cutting commitment to firm and fair enforcement. The Employment Standards Administration is currently participating in a Department-wide enforcement task force to ensure current enforcement strategies maximize utilization of our resources. The three-day strike force involved more than 500 compliance officers nationwide and conducted 3,900 investigations, uncovering about 12,750 minors illegally employed by over 1,900 establishments. We have imposed more than $3.9 million in penalties on violators.

I must emphasize that the strike force is only one component of a comprehensive 5-part strategy developed under the direction of Secretary Dole to address the serious problem of child labor violations. Other components include our already increased civil money penalties and the intradepartmental task force comprised of the Employment Standards Administration and the Occupational Safety and Health Administration, and other DoL agencies.

Your invitation to testify references your bill introduced just this last week. The bill reflects your strong commitment to America's children—a commitment we share. Although we have had only a short time to study the bill, we support its main objective; namely, to ensure that employers are given sufficient incentives to comply with the provisions of the Fair Labor Standards Act.

Like you, we recognize that civil and criminal penalties are appropriate means of emphasizing the seriousness of child labor violations. The strike force civil money penalties of $3.9 million is solid evidence of our commitment. We suspect that the employer in Dallas who was fined over $153,000 has gotten the message. And we think that our biweekly release of the names of fined employers has used the press as a multiplier of our enforcement efforts, for we, like you, think that full, fair, and firm enforcement is the answer to bringing about compliance.

As Secretary Dole has publicly stated, the Department is currently making a comprehensive review of its regulatory and statutory authority and requirements in the child labor area. Today, I would like to tell you how we are approaching that study and describe our analytical framework.

As to our approach, you need to know that we view administration of the laws Congress has given us and use of the resources that the American taxpayer has provided for that administration as a matter of stewardship; that is, it is our responsibility to do the best possible job with what we are given. An important part of stewardship is knowing when to ask for more. If after careful, prudent study we decide that the public trust requires more, whether enhanced statutory provisions for civil and criminal penalties or for more compliance officers, we won't be afraid or bashful to ask for more.

You have witnessed that attitude in connection with the Department's OSHA, pension, and other activities. It is an attitude we firmly share.

As part of that study, we are looking closely at the results of the strike force in light of the increased penalties that we have set in place, and we are looking at a regulatory process by means of our child labor task force. Are our increased civil money penalties enough? It is a question that your bill squarely poses by proposing a change to the FLSA statute itself. Should criminal penalties be increased? Again, your legislation raises the right questions.

Our analytical framework in setting about to answer those questions starts from the fundamental proposition that breaking the law should never be a cost of doing business, and that truly flagrant violators should be severely punished. We believe that the child labor civil and criminal penalties should be broad enough to stop the violators. We are particularly concerned with flagrant violators.

We also recognize the need not to discourage law-abiding employers from offering entry level job opportunities to minors. Economic trends are such that the continued growth in the number of jobs and a low unemployment rate will dictate increased reliance on a shrinking pool of minors. There were 1.2 million fewer 16- and 17-year-olds in 1989 than in 1981, and some 700,000 fewer 14- and 15-year-olds in 1989 than in 1981. Our objective is to ensure that employers do not cut legal corners in hiring minors.

While I cannot comment on the specifics of your bill at this time, I can tell you that we will have a response to you expeditiously and look forward to working with the Congress on this critical issue.

This concludes my summary remarks, and we would like to take any of your questions at this time.

[The prepared statement of Mr. Brooks follows:]

STATEMENT OF
WILLIAM C. BROOKS
ASSISTANT SECRETARY FOR
EMPLOYMENT STANDARDS
BEFORE THE
SUBCOMMITTEE ON LABOR AND SUBCOMMITTEE ON CHILDREN, FAMILY, DRUGS AND ALCOHOLISM, OF THE COMMITTEE ON LABOR AND HUMAN RESOURCES
UNITED STATES SENATE

May 8, 1990

Messrs. Chairmen and Members of the Subcommittees:

I appreciate the opportunity to be here today to discuss child labor. Like both of you, Secretary Dole and I are deeply concerned about this issue. My purpose today is to describe the Department of Labor's strategy in addressing the employment of children in violation of our laws. It is a strategy that will, I believe, send an unmistakable message: that we have gotten tough on law-breakers.

At the outset, I would like to mention that we are in the process of reviewing S.2548, legislation that you jointly introduced just last week, and we will be providing you comments on this legislation in the near future. The Secretary and I share the aims of that bill, and commend you for your keen interest in protecting the safety, health and general well-being of American children.

As Secretary Dole has publicly stated, the Department is currently making a comprehensive review of its regulatory and statutory authority and requirements in the child labor area. Many major related policy considerations are being examined. The Department, under the Secretary's leadership, has already undertaken a five-part action plan to deal with child labor violations that reflects our own very strong commitment, which I would like to discuss today.

Vigorous enforcement of the law is the keystone and first part of this plan. At Secretary Dole's direction, the Employment Standards Administration, on March 12-14, undertook a nationwide enforcement action, or strike force, directed at child labor violators. We refer to this as Operation Child Watch. More than 3900 workplaces were investigated. Violations affecting children were found in roughly half of these workplaces. To date, we have assessed penalties for more than 850 businesses. The employers, whose names have been made public include only those involved in investigations completed and reported, as of April 25. Many larger complex cases are still being processed.

What is important, of course, are the children found to be illegally employed.

Here is a profile of these youngsters:

- More than 1,800 were 14- to 17-year-old teenagers in hazardous occupations, such as operation of meat slicing machinery.
- About 450 were 13 years old or below and too young to work.
- The rest, more than 10,500, were 14- and 15-year olds working later or longer than is legally allowed during the school week.

Of these, 38 violations involved serious injuries or disabilities. No deaths caused by child labor were reported. In 275 of the investigations, the employer had failed to maintain records of the minors' dates of birth.

Those firms cited as being in violation are located in 46 States and the District of Columbia and can appeal the Department's findings, seek to have them overturned, or pay the fine assessed.

Secretary Dole and I believe that the results support the original idea of using a strike force. These results confirm that the earlier research and evaluation that the Department did was valuable in defining a national problem and shaping a response. A highly visible message has been given not only to employers but to schools, children and parents. The message is this: Employment experience can be very desirable for youngsters, there is no question about that. But children's first priority, and the first priority of their parents and employers, is their education, health and safety. Employer violations, whether motivated by greed or by ignorance, will not be tolerated.

As a result of the strike force, we are already seeing a dramatic increase in requests by employers asking for guidance in complying with the law. The nationwide publicity on this strike force was extremely useful. It multiplied the effectiveness of enforcement actions, by informing children and parents of their rights and employers that certain practices are wrong. It has served as a deterrent to employers who do not wish their violations publicized.

Our second initiative is to stiffen penalties for offenders. This was put to its first major test by the strike force.

The Fair Labor Standards Act (FLSA) provides that employers who violate the child labor provisions may be assessed penalties up to $1,000 per violation. Prior to February 3, we limited penalty assessments to $1,000 per minor, regardless of how many types of violations there were for each child and regardless of how often each occurred. Under a revision of our internal procedures, which we have applied to our recent strike force investigations, we are no longer limiting assessments to $1,000 per minor. Instead, we are assessing within the $1,000 statutory limit per violation. Therefore, multiple violations involving one minor could, and did, at times result in an assessment totalling more than $1,000 per minor. This has resulted in an estimated $3.9 million in strike force penalties.

The increased penalties I have discussed have already been implemented. They did not require new regulations or legislation. But the Secretary regards this step as the beginning, not the end of our overall action plan on penalties.

The Secretary has directed me to follow carefully the impact of the new penalty assessments we have adopted and to study their implications for future enforcement, in terms of adequacy and deterrent effect. I am currently undertaking this evaluation. In doing so, I am mindful that a delicate balance be struck. We must punish flagrant offenders, without discouraging other employers from legally hiring youngsters.

The current framework of laws and regulations.

As members of both Subcommittees know, our authority for this strike force and other enforcement derives from the child labor provisions of the Fair Labor Standards Act.

For non-farm labor, the basic rule is that there is a 16-year minimum age for employment. There are two major exceptions. First, the Act permits work by 14- and 15- year olds in restricted hours and restricted occupations so that the work does not interfere with schooling, health, or general well-being. Second, for 16-and 17-year olds, employment is legal except where we find that an occupation is hazardous or detrimental to health or well-being. The Department over the years has made such findings for about 17 nonagricultural occupations.

The basic rule for farm labor is that children under 14 can work only outside of school hours and under certain circumstances, unless the children are employed by their parents or work on the family-owned farm. However, the Department has determined that some farm work is too hazardous for any children under 16. Children younger than 12 years can sometimes work with parental consent and under very limited circumstances.

The Department enforces these and other fair labor standards through a nationwide force of about 1,000 Wage and Hour compliance officers. The strike force utilized half of these officers for three days.

The Department's efforts are complementary to the efforts of the States, most of which have their own fair labor standards provisions for children. For example, there may be occasions when the Federal FLSA does not apply because there is no "commerce" within the meaning of our statute. In such cases, a State's law may reach these situations.

The problem.

The strike force and other actions I shall describe shortly have made it clear that labor undertaken by minors in violation of Federal child labor standards is, in the plainest possible terms, illegal and unacceptable. Secretary Dole and I believe that the Labor Department should prepare our future workforce -- our children -- for the 21st century. Our children will lead us there. They need to get there safe and educated.

Our basic understanding of the problem was - and is - derived from the Department's own enforcement record.

In 1985, our compliance force detected 9,800 illegally employed minors. In 1989, that number was 22,500 -- an increase of 128%. Over the same period, we almost tripled the fines that we imposed on law-breaking employers -- from $1 million in 1985 to $2.8 million in 1989. Now we are assessing the results of a Operation Child Watch, whose employers must pay an estimated $3.9 million in fines.

Mr. Chairman, I believe these numbers tell us that the Department, as evidenced by its constantly improving record of enforcement, is doing a first-rate job in responding to a growing problem.

What has caused this burgeoning problem?

Child labor violations are most prevalent, of course, in industries that employ the most kids. These tend to be the low-skilled, lower paying service sector jobs in our economy. Examples run the gamut from grocery and convenience stores to fast food establishments, restaurants, movie theaters, retail shops, bakeries, and other enterprises.

It would be easy to sensationalize the overall problem by concentrating on the occasional, graphic stories of tragically-abused child laborers. But that does not present an accurate overall picture, and does not lead to an effective, coherent enforcement policy -- one that addresses the problem on all fronts from the tragic cases to less dramatic, but nonetheless harmful, child labor infractions.

We believe that the root causes of the problem are subtle economic and demographic trends.

On the economic side, the good news is that we have had continued growth in the number of jobs and a low unemployment rate for some time. But the bad news is that some employers cut legal corners in filling entry-level jobs with young children.

As to demographics, the post-war baby boom fueled the growth of our labor force in the 1970's and 1980's. That trend has reversed, and the pressure to hire very young workers will increase.

The trend in fact was evident in the 1980s.

There were 1.2 million fewer 16- and 17-year olds in 1989 than in 1981 (from 8.1 million to 6.9 million). There were also fewer 16- and 17-year olds working (from 2.9 million to 2.6 million).

For 14- and 15-year olds the trends were similar but not exactly the same. There were 700,000 fewer 14- and 15-year olds in 1988 than in 1981 (from 7.3 to 6.6 million). There were fewer children in this category working (from 1.1 million to .9 million).

These trends suggest economic incentives for employers to induce young workers into off-limits jobs (perhaps at higher rates of pay than they might enjoy elsewhere), and to work the smaller pool of 14- and 15-year-olds for longer hours than are permissible.

This hypothesis is a possible explanation of the rise in violations involving hours-worked by children and of hazardous occupation orders violations. It also motivates us to fashion our strategy so that we can influence the employer's decision whether or not to hire kids in violation of the law. Simply put, our aim is to make it unacceptably costly to employ children in violation of the law.

The Department's objectives in dealing with the problem.

Our mission is to meet these troubling trends -- to get in front of the problem and to make violating the law much more than just a cost of doing business.

Accordingly, I have set three key objectives in this area: First, to ensure firm and fair enforcement of the FLSA's restrictions on child labor, made visible through high-profile enforcement and public awareness. Second, to develop, where necessary, new regulations and enforcement policies to ensure that the Department is proactive on this issue. Third, when the employment of youth is permissible, to ensure that it is safe.

I have already described the first two parts of Secretary Dole's 5-part action plan needed to meet these objectives. I will now turn to the other three parts of our plan.

The third initiative the Secretary has directed me to undertake is to ensure that when kids can work legally, the work is not unsafe or unhealthy. I am moving forward expeditiously with regulatory changes dealing with Hazardous Occupation Orders No. 10, to propose that meat slicers in restaurants are covered by the Order; No. 2, to propose to remove the existing exemption for 16- and 17-year old school bus drivers; and No. 12, to propose to broaden the prohibition on minors using paper-products machinery.

As we do so, we will continue to review our existing hazardous orders, paying heed to the views of public and private organizations and individuals, including the Child Labor Advisory Committee created by the Department, whose time and efforts are much appreciated.

As a fourth initiative, I have, at the Secretary's direction, established an intradepartmental task force to ensure that the Department's approach to formulating and enforcing our regulations is effective. The task force, which has begun its work, is chaired by the Employment Standards Administration (ESA), and includes representatives of the Occupational Safety and Health Administration (OSHA), the Solicitor of Labor, the Bureau of Labor Statistics and others. This has already led to a new level of intradepartmental cooperation in the form of a Memorandum of Understanding between ESA and OSHA, which has initiated a national effort at cross-training of our respective staffs to identify and refer violations of our respective statutes, including health and safety violations of our working youngsters. The task force will seek to identify, share and develop meaningful health and injury data essential to policy decisions. It will review the exposure of minors to chemicals. It will also advise whether the hazardous occupations orders should continue to be reviewed one by one, or whether a more generic approach is feasible. The present approach may not be as flexible as we want it to be, to accommodate fast-changing workplace technology and conditions.

We are keenly aware that FLSA enforcement in general, and child labor enforcement in particular, also face special challenges in dealing with the recent immigrant population and with the agricultural sector. For example, family farms or other family businesses, where many injuries occur, are exempt from the

FLSA child labor provisions when the owners employ their own children. And language barriers often have to be overcome in enforcing child labor laws among legal or illegal immigrants.

As a fifth major initiative, the Secretary and I have directed our Wage and Hour staff, working with attorneys in the Office of the Solicitor, to determine, in cases involving serious illegal child labor, whether we should seek court intervention in the form of preliminary and permanent injunctions.

The Department will consider litigation where there is clear evidence of employer recidivism, employer unwillingness to take the steps necessary to assure future compliance with the FLSA, or a particularly flagrant violation.

The child labor injunction will be an important weapon for us -- one that we are going to be utilizing more effectively.

These five initiatives are being taken within a broader overall restructuring and renewal of ESA enforcement and management. In February, I announced a restructuring of the relationship of our field offices to our national office, making regional program heads directly accountable to national program heads. My aim here is decentralization. When I accepted this job, Secretary Dole asked me to bring business principles to the administration of the Department's largest agency, ESA. I took her at her word. This new structure will establish clearer lines of authority and communication, and empower those responsible for enforcing the laws with adequate authority and resources to do so. Under the Secretary's overall leadership to strengthen DOL enforcement, ESA will shortly hold a national conference on enforcement. At the conference, we will continue to look at how the realities of enforcement can better interrelate to setting of national enforcement policy.

Messrs. Chairmen, this concludes my prepared remarks. I will be happy to answer any questions that members of the Subcommittees may have.

Senator **Metzenbaum**. Thank you very much, Mr. Brooks. We appreciate your comment, and we appreciate the efforts of the Secretary in this area. We appreciate the effort that was made with the three-day strike force. It was a kind of symbolism, and particularly we appreciate your indicating that the Department supports our objectives. What we now want to do is pass the legislation.

I need not tell you that the time clock is running on the duration of this session. We intend to move promptly. My staff will be available to work with the Department of Labor at any time, on any day. I don't have any problem about working them late hours or overtime. They are not children. [Laughter.]

There are no child labor laws that are applicable. If you want to meet with them at 1 o'clock in the morning, they will be there. But we are ready to move, and we say to the Department of Labor that we understand the question of studies, conferences, thinking, dialogue, and all the other stuff. We in Congress deal with action. We either pass legislation or we don't. This legislation has a "go" signal on it, and I make no bones about it. We would like to have it a "go/go" signal by including the administration's support as well.

Mr. **Brooks**. Senator, we have completed about 45 percent of the cases, the investigations, and we are utilizing that data to set our frame of how we need to look at this from a statutory and from a regulatory standpoint. So we are moving along those lines, and at the same time or in concert, looking at your bill.

Senator **Metzenbaum**. Do you think that it will be possible that some time this week the Department of Labor could meet with my staff in order to see if there are any problems so that we could have the administration on board? We would like to try to work out those problems. If we have disagreements, of course, so be it. But we are anxious to move.

Mr. **Brooks**. We would be in agreement to sit down and start conversations. You need to also know, because there are some who think that this was a one-time effort, the strike force, on March 12-14, we plan to have at least two more of those this year with other dimensions, especially to make sure that we are focusing in on the charts that are on the wall there.

Senator **Metzenbaum**. What a beautiful way to complete the picture of having three strike force hits this year by enactment of legislation to increase the penalties. I think it would just be terrific.

Let me ask you a little bit about your compliance officers. How many compliance officers are assigned to investigate child labor violations? And are there any plans to increase that commitment?

Mr. **Brooks**. There are 1,000 compliance officers in the Wage and Hour Division. How we function is each time they go out on an investigation, they are looking for child labor.

Now, I might add that recently I signed a memorandum of understanding with Jerry Scannell, the assistant secretary for OSHA, whereby we would do some cross-training of my compliance officers with his OSHA compliance people, whereby in both cases when my people are out there looking for OSHA violations, such as if they are in a place where these plugs and all these things are, our people could see those and report those to Assistant Secretary Scannell in OSHA. And his people are out at the same time, when they see violations of child labor, they report them back to me.

It is very difficult to give a number or a time because what has happened in our reporting system is that the only thing that is counted is when our compliance officers have a hit, when they, in fact, find a child violation rather than when they are looking for violations.

Now, let me also say that we are—at this time I have streamlined and reorganized the Employment Standards Administration, specifically the Wage and Hour, so that I could clearly get the instructions down through the organization. We have put the line people back in the business of enforcement. We are doing some innovative things, such as the strike force, where we are now utilizing more people in that effort. Where I see the priorities that are needed with those 1,000 people is where I am going to put them. No longer are we going to—in the past, our activity has been complaint-driven. We have sat by the phone and waited on a call for someone to call in with a complaint, and we responded. Well, we have changed that in the last month. We are going to be more directed and more focused on going out and identifying where should we be and where should we be attacking the problem.

So once I put all this into my system with an intradepartmental task force that we have going on, where we are studying the results of the study, I think we will be in a better position to understand if we need any more resources or if the current ones we have are adequate.

Senator METZENBAUM. How many compliance officers do you now have? About 1,000?

Mr. BROOKS. One thousand.

Senator METZENBAUM. Isn't it a fact they are pretty much overburdened and that they are doing all the violations, including child labor law violations, at the same time? As I understand it, none of them is specifically looking for child labor law violations.

Mr. BROOKS. Up until March 12, none of them were specifically looking for child labor violations. But as we move forward, we are going to continuously have some people looking for child labor violations.

Now, the number from day to day, I am not sure. The other thing we have done, Senator, with this strike force is to pinpoint the parts of the country and to pinpoint the parts of cities and the industries that we are going after. So we are going to be much more I think sophisticated and knowledgeable about where to go to deal with child labor violations.

Senator METZENBAUM. Mr. Brooks, can you tell me how many are specifically directed at child labor law violations at this time? I don't care whether it's 10 or 11 or 101 or 102.

Mr. BROOKS. At this time, I don't have any who are directed strictly on child labor. In our parlance, they are "generalists." When they go out, they look at the whole host of violations. But as I indicated earlier, we are in the process of changing that. We are going to have an enforcement conference here in Washington on May 29 and 30. I am bringing in all of my regional and district people who are involved in enforcement. We are going to have a major look at how we deploy our resources.

Once we come out of that, I think my answer will be much different than it is today because we are going to change the way in which we enforce the law and utilize our resources.

Senator **Metzenbaum**. I would say to you that if you had a bloc of enforcement officers dealing with child labor violations, it would be very significant and very effective, in this Senator's opinion, because child labor law violations can be more singled out. You can get a pretty good idea of where to look for them. With the overburdened job that the whole group has, I am afraid you don't find them. But I think if you had a certain group of men and women specifically addressing themselves to child labor law violations, my guess is that you would rapidly decrease the number of child labor law violations in this country. It would send a loud and clear signal, in these garment factories, fast-food operations, and some of the other places where we know child labor is generally used.

The people going into General Motors, don't have to check there. That is not where the problem is. It is not at General Electric. It is not at ITT or AT&T. The problem is in certain areas. And I would strongly urge you as promptly as possible to take a certain number and say: Your job is to find child labor law violations if they exist, and the faster you move, the more applause you will get, not only from the Department of Labor but from Congress and the people in the country as well.

Mr. **Brooks**. Senator, I am sure by the end of this month we will have a cadre of people dedicated. In fact, starting this Friday, we are going to have a cadre dedicated to one portion of this business.

Senator **Metzenbaum**. Mr. Brooks, Mr. Davis, I am going to excuse myself. The co-chairman of this hearing, Senator Dodd, is going to carry on. I am due at another hearing.

I should point out that there are three votes back to back at 12 o'clock, so this hearing will probably adjourn at that time. I leave it in the hands of Senator Dodd to figure out how to finish up with Mr. Brooks and the last panel.

Mr. **Brooks**. Thank you, Senator Metzenbaum.

Senator **Dodd**. [The presiding.] Thank you.

Mr. Brooks, let me just pick up on that last point if I can with you here that Senator Metzenbaum has raised. That is about some particular people with some unique—because enforcement officers do—I am confident that of the 1,000 enforcement officers you have particular groups that bring some particular expertise.

Mr. **Brooks**. Yes.

Senator **Dodd**. They are not just all generalists.

Mr. **Brooks**. Right.

Senator **Dodd**. For instance, we know now in construction safety under OSHA we are getting far more attention to particular expertise in looking for the unique problems associated with the construction trades. I know from dealing with the Department of Labor that this is true in a variety of other areas as well.

Has it been because, child labor law violations were treated as something more of a historical fact rather than an ongoing problem prior to these strike force hits? What is the reason for not having that kind of expertise?

Mr. **Brooks**. On the first point, we do have some of those 1,000 who are described as farm labor specialists, who deal strictly in that area. I think if you look at the record, though, from 1983 until 1989, the reason those numbers have gone up—one of the reasons they have gone up is because of the diligence of the Labor Department's investigators. We have driven those numbers up, so we are a victim of, I think, our good efforts—especially in the Northeast, where we are experiencing low unemployment, and the demographic issue. Our people were sensing this, plus we were also receiving in the Northeast, again, caution from the educators who were saying that we have these 14- and 15-year-olds who are sleeping in school; can you people help us out?

So looking at those two things, our people started dedicating themselves more to looking for child labor, and that has driven those numbers up. So once I came to the Department, Secretary Dole asked me as one of the first things to take a hard look at this trend, find out why it is happening, and see if we can bring a reversal to that trend.

When you look at the increase plus the demographics and the economics, at that point we had to develop a strategy to reverse that trend.

Mr. Davis. Senator, can I also add a couple thoughts on that from a legal perspective? First, I think it is part of the more pointed effort that we are making to deal with child labor violations today. Increasingly, we are taking account of what our legal remedies are and focusing those right at the beginning of the case in terms of, to some degree, targeting. Bill and I have already talked about doing more of that, in the sense of making sure that the wage-hour enforcement personnel understand what remedies we can use, including injunctive relief—which we can get comparatively quickly—so that we can really play off the strengths that are developing, exist today, and are going to be developed further in wage-hour.

The second point is, Bill Brooks mentioned a moment ago to Senator Metzenbaum that he is moving the agency away from purely a complaint-responsive stance and more to a program-and initiative-oriented stance. I am now kibitzing on my colleague's territory here, but I think that will give Mr. Brooks and the senior managers the chance to make decisions about how you assign personnel and develop those fields of expertise, when you are deciding where to go rather than letting the next telephone caller tell you where to go.

Senator Dodd. I applaud that. That is a fundamental change.

Mr. Brooks. Yes, it is.

Senator Dodd. Of all the things I have heard this morning, that may be the most important piece of information, the fact that you are not going to be just complaint-oriented. For far too long, this has been the case. If you are going to try and go in and find out where these problems exist, then there is real hope here. We are going to break new ground. I commend you for that.

I think it is also important—and I would be interested in hearing your comment—that language skills are very important. I think areas where there may be the most significant violations are places where you have recent arrivals in this country. They are being taken advantage of, and not aware of their own rights. In some cases employers may be operating under less than complete legal circumstances. Often employees are intimidated by employers, even when they may suspect that their rights are being violated. What effort is being made to bring in people who have language skill problems?

Mr. **Brooks**. Senator, I spent 3 days in Florida in the migrant camps in the rural crops, and I experienced the fact that—and I went as a plain investigator with a compliance officer who spoke Spanish. If that person had not spoken Spanish, there were about two or three camps that we got in to investigate that we wouldn't have gotten into.

I spent a day up in New York City with the compliance officer in a sweatshop. Here, again, if I wasn't with a person who spoke Spanish, we wouldn't have gotten in. But it was even more critical than that because the owner and proprietor of this particular sweatshop was Korean. The main shops that we are looking at in New York now are Chinese. So I am putting out a great search to get people especially who speak Chinese and Korean. We have, I think, an adequate number speaking Spanish, but we are having to switch over because the proprietors are changing. And you are exactly right that without that language facility, the investigation is prohibitive.

Senator **Dodd**. Let me ask one last question. In response to Senator Metzenbaum with regard to the legislation we have submitted, you said that after "careful study" you will have a response. Obviously, I would want you to make a careful study. But when I hear the word "careful study," after 16 years around here, I get this uneasy feeling about the words "careful study." I think you understand what it can mean.

Mr. **Brooks**. We are already reviewing most of the issues that are raised in there as an outgrowth of our strike force, so we are not breaking new ground in our study.

Senator **Dodd**. Well, that is good. What we are talking about here in this legislation, in effect, is really increasing penalties and so forth.

Mr. **Brooks**. Yes.

Senator **Dodd**. I gather, to the extent you have looked at the legislation, you do not have any real complaints of what we are doing. We are not branching off into areas that you think are unwise for us to be headed; is that correct?

Mr. **Brooks**. In principle, we are in agreement, as I said in my earlier statement.

Senator **Dodd**. In principle you agree with where we are headed.

Mr. **Brooks**. Yes.

Mr. **Davis**. Senator, let me also add a little bit more about the process that we are going through that might make it a little more tangible for you.

When Secretary Dole came into the Department, Bill Brooks was confirmed as Assistant Secretary. Mrs. Dole and Mr. Brooks settled very early on child labor as an area of focus. In fact, Operation Childwatch, the strike force we have been talking about, was initially planned in December or January. Right behind that is a series of regulatory changes and possible legislative options. In short, neither Bill nor I need to go back to the office today to say, all right, folks, let's start looking at the legislation for the first time.

Senator Dodd. I understand that.

Mr. Davis. We have a number of thoughts on it.

Senator Dodd. I should take a second just to commend the Secretary of Labor as well. We have been dealing with the construction safety legislation, here is a perfect example where we introduced the legislation and Mr. Scannell went ahead, and about 50 percent of that legislation has now been enacted as a result of administrative decisions. The creation of a separate office for construction safety within OSHA, for instance, was an action taken by the Department of Labor without passing a law. I think you will find that if we can accomplish a lot of what we are talking about here, without having to enact a law there is no reason to push legislation unnecessarily. If we can get a lot of this done right through the administrative processes, then that will be the better way to go.

Mr. Brooks. Just yesterday, we moved through a proposal on three other hazardous orders: H.O. 10 on the meat slicers, on the drivers under age 18, and on the paper builders. We have moved on those, and it is in the process of change now.

Senator Dodd. I commend you for that.

Senator Jeffords.

Senator Jeffords. Thank you, Mr. Chairman.

First, I want to commend you, Mr. Brooks, for the tremendous job that you are doing in all areas of your jurisdiction. I also want to commend the Secretary.

Mr. Brooks. Thank you.

Senator Jeffords. Just as a little anecdote, I was sitting in an audience where she wasn't aware I was there. She was giving a speech to the business community, and she was really pretty hard-nosed on it. So she wasn't doing it for my benefit. It was a different area. But I know she means business, and it is not just lip service.

First, Senator Metzenbaum raised the question of concentration of your forces, but I am sure that when you get into this area, you are looking through wage records and time sheets. So I am sure that we don't mean to imply that you should ignore all the other violations that might come under the wage and hour laws, because I am sure that if a business is ignoring the child labor laws, they are probably quite likely to be ignoring the other ones also. I am sure we don't mean to imply that and I am sure you won't take it that way.

I would like to ask some specific questions about the statute. Mr. Davis, we had a similar colloquy with respect to OSHA when we get into these criminal aspects. I raise these because I don't want to end up passing a bill here that is going to get thrown out for constitutional reasons or which may lead to some bizarre circumstances which are unintended under the circumstances, because we are dealing here with a reference to a broad section, the teeth of which come in specific regulations. And if we start going into long-term sentences, I think we had better be pretty sure we know what we are doing is going to result in an enforceable statute.

Let me go into a couple of areas, but first on to the aspect of whether or not we would be able to get a conviction. As I mentioned earlier, there are several areas, broad areas under the child labor laws. One of them, I think, the use of dangerous equipment, I don't think there can be any real argument that a willful violation of that could result in something that would be enforceable from a criminal perspective. But it seems to me if we get into willful violations of some of the other sections, it would be very difficult to say that there has been a criminal violation.

For instance, if you had a young man or young woman delivering papers, the evening papers, and they are on their bicycle and it is 7:30 p.m. and they know that it is 7:30 and a drunken driver runs into them, is the employer guilty of a criminal violation? I would like your reaction to what kind of problems we get into in those things. Of course, there is a whole host of situations which you could arrive at, reading the word "cause" in there, which has always been a very troublesome one in the legal area anyway. I would appreciate your comments on what we can or should do to try and prevent those kinds of things from getting the statute declared unconstitutional.

Mr. **Davis**. Senator, I have exactly the same concerns, and I will speak directly to it. If I could reserve, because we will come back to the committee with very specific views on the pending bills. In anticipation of that, I have exactly the same concern that you have; that you take a criminal statute that potentially could be read very broadly on matters such as cause, proximate relationship between the death and the conduct. Part of that I would like to think that we could deal with as a matter of prosecutive discretion. But my concern is whether the pure language of the statute could give rise to an unexpected, untoward, or possibly unconstitutionally vague application of that.

Today, with the statute being effectively set at the misdemeanor level, perhaps some of those tests are less strict than they would be as various of the bills, including Senator Dodd's and Senator Metzenbaum's bill, proposed to take that to a felony.

Senator, also on the topic of criminal exposure, I would like to go back a little bit in history. As I have gone through to look at the experience with the use of the criminal provisions of the statute, I understand that the criminal provisions were used to some appreciable degree before 1961, specifically between 1949 and 1961. Back then there were no back wages remedies. The only remedy the Government had, as I understand it, was the injunctive going forward remedy. Of course, the Congress added the back wages remedy in 1961, and that is where the great bulk, virtually all of the enforcement effort has been centered.

I think, as a result, I really can't come to you as we have in the OSHA area, for example, with some very detailed familiarity with the application of the criminal statute. I think as a result that puts a greater burden on understanding exactly the kinds of questions you raise, Senator, before we get into it. We can't look, in short, at a very——

Senator **Jeffords**. I understand, and I realize we are running out of time. So I know you will be back to us on that.

There is one other area that does concern me in the sense that we are raising the fines to $10,000, and yet we have testimony here as to what the workmen's compensation award would be. It seems a little offensive to me that the Federal Government would get

$10,000 to put in its treasury, and we would have a situation where the victim's family ends up with $1,200. Is there any way that we can, without federalizing workmen's comp have a civil fine or penalty here which could award the victims without getting into a legal mess?

Mr. **DAVIS**. Senator, my frankly intuitive reaction to that is I do not believe that that can be done, largely because you are using the Government's commerce clause power as the basis for the Congress's regulation here to bestow a private benefit using the administrative policing process. But I am afraid that answer would not get me a C minus from my constitutional law professor, so I would like to come back for an answer.

Senator **JEFFORDS**. I would like to take a look at that, because it does seem a little bit—well——

Senator **DODD**. I agree with you on that. It is a good point.

Senator **JEFFORDS**. Thank you very much. I deeply appreciate your testimony.

Mr. **BROOKS**. Good. Thank you.

Senator **DODD**. Thank you. I am sure there will be some additional written questions, but, again, we want to thank you, Mr. Brooks, for your willingness to take a good look at this and work together with us on it. It is very, very helpful, and to you, as well, Mr. Davis, for the very good points you raised.

Mr. **BROOKS**. Thank you very much.

Mr. **DAVIS**. Thank you.

Senator **DODD**. Our last panel of witnesses, please come up as I read your names: Linda Golodner, executive director of the National Consumers League; David Liederman, executive director of the Child Welfare League of America; and Rudolph Oswald, the director of the Department of Economic Research, AFL-CIO. We thank all three of you for being with us today, and we apologize for the rush here. But you have been down this road before. We know all of you have in terms of your activities before the Congress.

I am going to ask you, if I can, if you could boil your remarks down to about 5 minutes so we can get to some questions for you before we are faced to go over and do an hour's worth of voting, so that you won't have to wait around until we get back. So let that be an incentive. It is either that or wait an hour for us.

Senator **JEFFORDS**. Mr. Chairman, may I interrupt you very briefly and ask unanimous consent that the statement of Senator Hatch be placed in the record?

Senator **DODD**. Without objection, so ordered.

[The prepared statement of Senator Hatch follows:]

PREPARED STATEMENT OF SENATOR HATCH

Over the years, the words "child labor" have caused people to conjure up images of 10-year-olds bent over textile equipment or with faces blackened from work in coal mines. The Fair Labor Standards Act of 1938 has long-ago outlawed such blatant exploitation.

Employers should not be permitted to use "oppressive child labor." Enforcement ought to be vigorous, and penalties ought to be stiff.

I commend the Secretary of Labor for her recent enforcement action and trust that it signals continued emphasis of this law. But, in considering this law 50 years later, we also need perspective; our analysis must be balanced. Nineteen ninety is not 1938.

The law ought to make sense in the context of 21st century technology and culture. I am not sure that it does in many respects.

For example, an article which appeared in Utah's *Davis County Clipper* a short time ago describes the desired balance between protecting young people and denying them opportunity. The author, Bryan Gray, describes a young man just short of 16 years old, whose initiative earned him rapid raises. This young Utahan once volunteered to help out with a large group of customers who came into the store just before he was to punch out at 7 p.m. As a consequence, he earned a bonus from the employer.

Unfortunately, the employer was socked with a child labor violation and a fine by the Labor Department.

I am not arguing that this was not a violation—it was. But, should it have been? In one fell swoop, we communicated a "work to rule" value system. Initiative and hard work doesn't pay unless you're over 16 years old.

Now, let's consider our child labor laws in light of another article which appeared in last weeks *Washington Post*. It was reported that gangs of youth were wandering through Alexandria at night, randomly attacking and beating innocent people. According to the accounts, some of the gang members were 9 years old. They have every right to be on the street at midnight, but are prohibited from working past 7 p.m. It may be possible that work opportunities would help these youngsters develop some positive goals. It would certainly help them cope with the obvious boredom that leads to mischief of increasing severity and violence.

We must consider increased penalties, criminal or civil, in the context of an underlying law that makes sense for the 90's.

STATEMENTS OF LINDA F. GOLODNER, EXECUTIVE DIRECTOR, NATIONAL CONSUMERS LEAGUE, WASHINGTON, DC; DAVID S. LIEDERMAN, EXECUTIVE DIRECTOR, CHILD WELFARE LEAGUE OF AMERICA; AND RUDOLPH A. OSWALD, DIRECTOR, DEPARTMENT OF ECONOMIC RESEARCH, AFL-CIO, WASHINGTON, DC

Ms. **Golodner**. Thank you. I will just give a summary of my remarks so that there will be time for questions. I would hope that the full statement would be inserted in the record.

Senator **Dodd**. It will be.

Ms. **Golodner**. I am executive director of the National Consumers League, and this is a consumer advocacy organization that has worked on child labor issues since 1899. The League works on a number of marketplace and workplace issues, but we represent consumers who do not want goods and services they purchase to be made or provided for by the labor of children who have been exploited by their employers.

In addition to directing the National Consumers League, I also co-chair with my fellow co-chairs, Bill Goold of the International Labor Rights Education & Research Fund, and Bill Treanor of the American Youth Work Center, a newly formed Coalition on Child

Labor. Unfortunately, we feel it is important that many groups get together to publicize the problems in child labor today to make sure that the American public knows what is happening as far as the exploitation of children in the workplace.

Members of the Coalition are from consumer and public interest organizations from organized labor, the education community, women's groups, health care organizations, farm and youth advocacy organizations, and international groups. At the end of this month, former Secretary of Labor Ray Marshall will be addressing a forum the Coalition is sponsoring here in Washington.

I want to go over some points of the bill and mention that the companion legislation in the House is important for our Nation to again take pride in our own system of social justice and human rights public policies. Section 2 of the bill addresses criminal penalties for child labor violations. It is unfortunate that we feel that this is an important step. And I think it was dramatically shown this morning by Bernie Kimmel's mother that it is important that there be strong criminal penalties for those who grievously violate the child labor provisions of the Fair Labor Standards Act.

I also wanted to point out to the Senators a series of articles beginning on April 22nd by journalist Bruce Butterfield of the Boston Globe. He dramatically tells the story of child labor in this country today, from the farm community to the fast-food industry, sweatshops to construction work. And I would point out that he goes case after case of injury and death that I think the criminal penalties of this bill are important to address.

Section 3 of the bill regarding civil penalties will hopefully provide the important tough monetary penalties necessary to make an employer think twice before violating the child labor provisions. The examples mentioned by Dr. Landrigan of homework connected with sweatshops is one area that I think this section of the bill could provide those tough penalties that are necessary.

I want to just mention one thing. I also chair the Child Labor Advisory Committee of the Department of Labor. It was not mentioned by Secretary Brooks that this public service group is there to advise the Department on clarification and changes in the law. This advisory committee has made several recommendations to the Department, and unfortunately they are taking rather too long of a careful study, as you mentioned, on some of the recommendations.

The Department will move on some of the recommendations having to do with Hazardous Order 10, 2, and 12, which were mentioned earlier. We hope that it will move along swiftly.

Section 5 of the bill specifically refers to some hazardous orders that do not exist with regard to the poultry industry and the seafood industry. Let me just give you an example of some careful study that the Department has been doing. It has been taking 13 years of memoranda, which I point out in my longer statement, of information that has been collected on the hazardous occupation of the poultry industry and how the young people under 18 should not be employed in that industry. We have memoranda that the Department has had for 13 years, pointing out that it is a dangerous industry.

Our Consumer League in Louisiana points out that young people are working in the seafood industry, in the shrimp and some of the other seafood, using machinery that should not be used by young people. Yet this isn't covered by the Fair Labor Standards Act at this point.

I would hope that you would look at the House bill with regard to the collection of data and recordkeeping that is important to make decisions on what is dangerous machinery and what is a dangerous occupation. Right now the data is not collected in a way that is meaningful, and it is not something that either the Department or an advisory committee or a task force could even make decisions on what is an industry or what is an occupation a young person should be involved in.

I just want to mention at the end the question of violation of our child labor laws. Recently, there have been numerous reports of the crackdown of the strike force, of making sure that employers do not violate the child labor laws. No matter how many laws we have declaring occupations that are prohibited for young people, the compliance officers are hopelessly without resources to do their job effectively. Their budget needs to be increased. There have to be twice as many people out there working, or the enforcement of the child labor laws will continue to be complaint-driven. Even though the Department says they are going to have a change in direction, I feel that there just aren't enough compliance officers out there to do the job necessary.

I appreciate the opportunity to present this testimony and look forward to your questions.

[The prepared statement of Ms. Golodner follows:]

TESTIMONY OF LINDA F. GOLODNER
EXECUTIVE DIRECTOR, NATIONAL CONSUMERS LEAGUE
BEFORE THE JOINT HEARING OF THE
UNITED STATES SENATE
SUBCOMMITTEE ON LABOR AND THE
SUBCOMMITTEE ON CHILDREN, FAMILIES, DRUGS AND ALCOHOLISM
IN SUPPORT OF THE CHILD LABOR ACT OF 1990
MARCH 8, 1990

Chairmen Metzenbaum and Dodd and members of the Subcommittees, I am Linda Golodner, executive director of the National Consumers League, a consumer advocacy organization that has been concerned about child labor since 1899. The League works on a number of marketplace and workplace issues. As a consumer organization we represent consumers throughout the United States who do not want the goods and services they purchase to be made or provided for by the labor of children who have been exploited by their employers.

In addition to directing the National Consumers League, I am here today as a co-chair of a newly formed Coalition on Child Labor. My fellow co-chairs are Bill Goold of the International Labor Rights Education & Research Fund and Bill Treanor of the American Youth Work Center. This coalition was formed in response to concern expressed in a day-long forum on Capitol Hill in November on exploitation of children in the workplace. Its concerns are global; the Child Labor Coalition believes that children are the promise of all societies and recognizes that exploitation of children in the labor market, both in the United States and throughout the world, represents a threat to their health and well being. The Coalition also believes that international labor standards and domestic child labor laws meant to protect children from exploitation are poorly enforced or ignored.

The purpose of the coalition is to educate the public about exploitation of children; to strngthen protections that exist now; and to work for better enforcement of current laws and regulations that protect children. The Coalition also seeks to influence public opinion and policy on child labor and to increase understanding and knowledge about the impact of work on children's health and the quality of their lives.

The Coalition's first emphasis is on ending exploitation in the United States, both because we believe we will be most effective in our own nation and because we believe our nation can and should serve as an example of enlightened treatment of children.

Nomenclature plays an important role in discussions about young people working. The term "child labor" conjures images of turn of the century sweatshops and third world country abuse. The term "youth employment" is sometimes perceived as providing opportunity for young people to learn about the world of work as part of their teenage education.

It is generally believed that when children work for their parents in family undertakings, they are less exploited because the stress, fatigue and harmful effects are at least partly compensated in most cases by the personal attention and affection which parents can give them during both work and rest periods.

Picking a few grapes or oranges alongside your parents may seem like an innocent act -- in the open air, the family working together. But this is a major child labor problem when the age of the child is 9 or 10, or even younger, and children are exposed to pesticides and kept home from school to help the family.

According to the United Farm Workers of America, "Some 800,000 underaged children survive by harvesting crops with their families across America. Malnutrition among migrant kids is 10 times higher than the national rate; farm worker babies suffer 25% higher infant mortality and some are born deformed because of toxic pesticides carelessly sprayed in the fields."

The fact that child workers can be paid low wages or sometimes no wages at all is one of the main reasons why children are employed in the first place. Children who work in the family undertaking sometimes receive no payment at all for their work, since the family income is considered to be one indivisible whole.

It is when employers know that they will not be fined or penalized or that the fine will be so little that it is "just in the cost of doing business," that it is time to strengthen the law, step up enforcement, and assure the public that the Administrative Branch of our government is doing its job.

This is why your bill and the companion legislation proposed in the House is important for our nation to again take pride in our own system of social justice and human rights public policies.

Section 2 of the Bill addresses criminal penalties for child labor violations. It is unfortunate that it is indeed necessary and appropriate for this step. The Departments of Labor in several states and through the U. S. Department of Labor could site several examples of repeated violators of the child labor provisions and violations that are of a grievous nature, causing severe injury and in some cases death.

Section 3 of the Bill regarding civil penalties will hopefully provide the important tough monetary penalties necessary to make an employer think twice before violating the child labor provisions of the Fair Labor Standards Act.

The New York Apparel Industry Task Force has been making random visits to sweatshops in New York City. Their reports have dramatically emphasized the nature of the sweatshop operator that employs immigrant families including children. Very frequently, they have to work under difficult conditions, in stifling heat, poor lighting, noise, damp and unhygienic surroundings, and in an atmosphere contaminated by dust or gases. In the winter, it was reported that the temperature in one sweatshop was 8 degress.

With a larger civil money penalty and with stepped up enforcement, we would hope that employers would be more concerned about violating the child labor laws.

In addition to my position at the National Consumers League, I chair the Department of Labor Child Labor Advisory Committee. I would urge the Subcommittees to consider making this a permanent committee to make recommendations to the Department on changes and clarifications of the child labor provisions. Since the law was enacted the Department has sought public input on recommendations for change and clarification to assure that they are enforcing the law according to the intent of Congress -- to protect children in the workplace from hazards and from impacting on health, well-being, and their education. As the workplace changes with new technologies, with the detection of new hazards, and with new services or product industries developing, it is necessary to review these changes as they affect the young worker. For example, we know much more now about the impact of pesticides and other toxics than we knew fifty years ago when the law was written. There have been many changes in the place of employment of young people. The fast-food industry has developed and the primary employee of this industry the teenager.

The Department has indicated that some of the recommendations of the Committee will be acted on shortly -- regarding the use of slicing machines (Hazardous Occupation Order No. 10); driving of school buses by young people under 18 (Hazardous Occupation Order No. 2); and a clarification of the use of paper baling machines (Hazardous Occupation Order. No. 12). If the Department does in fact issue a final rule on school bus driving, the reference in the last section of the Bill you are considering would not be necessary.

Section 5 of the Bill specifically mentions some occupations that are not covered by the hazardous orders -- the poultry processing industry and the fish and seafood processing industries. The Department has in fact gathered some materials on these industries and recommendations were made in the past to include them in the hazardous orders; however, no action has been taken by the Department.

The Committee was given a memorandum of a visitation to a poultry processing plant in Maryland in December of 1982 by the Employment Standards Administation, Child Labor Branch and the ESA Division of Child and Farm Labor. The inspection was conducted in the sequence of the operation and started with the delivery of the birds and ended with the shipping operation. The conclusion reached by the investigation was:

"Due to the hazards of the movement of birds on shackels and the use of equipment that can cause severe injury to the hands, it is felt that poultry processing is too hazardous for workers under 18. It should also be noted that slipping hazards as well as excessive noise levels were noted in this plant...therefore we conclude that persons under 18 cannot work in chicken processing plants. The only areas considered safe for young persons would be in the box making department and possible occupations in the shipping and receiving departments."

There was also a report of an investigation in a Virginia plant in August of 1980 which details the plant procedures, including taking the chickens out of cages, placing them on conveyors, the killing of the chickens, scalding the carcass, defeathering, evisceration, chilling, and cutting, concluding that "this occupation is not suitable for those workers under 18 years of age."

In a memorandum dated June of 1977, there is a description of a plant concluding that highly automated machinery required a skilled operating engineer and that many of the operations are done by automatic machines. It was concluded that cutting machines used in the plant were "very hazardous."

Another report dated June of 1977 states:

"To some degree, the same environmental conditions in poultry processing are similar to those in meat processing. The floors in the killing, dressing, and eviscerating areas are somewhat wet from water, blood and waste fat, but not as much as in slaughtering and meat packing plants. The investigation which led to the development of the Order (meat slaughtering) states that 'there is reason to believe that constant exposure to the killing of animals is likely to have an adverse effect on an immature and sensitive young person's emotional development.' While that statement referred to the killing of hogs, beef, and sheep, consideration should also be given to the killing of poultry."

These are examples of memoranda provided by the Department of Labor to the Child Labor Advisory Committee that indicate that as long ago as 1977, this industry was considered hazardous, but that nothing was done by the Department to include it as a hazardous order.

The Louisiana Consumers League has reported to the NCL that young people are in fact employed in the seafood industry -- specifically in the crayfish industry in that State. Materials provided by the Department to the Child Labor Advisory Committee in anticipation that a hazardous order might be written have shown some of the equipment used in that industry are hazardous. They have included reports of injuries to adult workers.

Because of the lack of data available to the Child Labor Advisory Committee, it has often reached conclusions about hazardous industries by observing that what is hazardous for adults must also be hazardous for children. This is the case for both the seafood and the the poultry processing industries. For example, on May 4 the National Institute for Occupational Safety and Heatlh released a Health Hazard Evaluation Report on 2500 workers in poultry processing plants. 19% of the workers have serious problems of repetitive motion disorders. Another study by the Department of Preventive Medicine and Environmental Health of the University of Iowa indicates serious respiratory risks of working in the poultry industry.

When reviewing any of the hazardous orders or in considering prohibiting occupations for young people, some things should be kept in mind:

Children may be required to undertake more hazardous tasks than adults (for example, creeping under moving parts of machinery, working in confined spaces to which they have easier access; or they may be asked to do the "dirty work" such as using cleaning solvents or detailed work such as using toxic substances as gluing leather or soldering jewelry.

Let me turn my attention to the question of violation of our child labor laws. Recently there have been numerous reports of a crackdown of sorts,on those employers who violate these laws. No matter how many laws we have that declare certain occupations prohibited for young people and that they are to work a certain number of hours, the compliance officers are hopelessly without resources to do their job efficiently. They need more help than laws. Their budget needs to be increased to double their staff. The enforcement of our child labor laws will continue to be complaint driven rather than pro active even in the face of glaring evidence that abuse of our laws is skyrocketing.

Public education efforts might be effective to eliminate some violations of the child labor laws. But they will not be effective with those employers who willfully violate our laws, who abuse children for their own profit, who offend our sense of what is right and what is wrong concerning the labor of children. These employers together with some crew leaders who capture migrant farm workers, represent a throwback to those shameful days at the turn of the century. We must all work to made sure their practice is erradicated.

I appreciate the opportunity to present this testimony and would be happy to answer any questions.

Senator **Dodd**. Thank you very much.

Mr. Liederman.

Mr. **Liederman**. Thank you, Mr. Chairman. I am David Liederman, executive director of the Child Welfare League of America. We are a national federation of 600 public and not-for-profit agencies that serve about two million kids a year in this country.

Senator **Dodd**. Pull that microphone a little closer to you so we can hear you.

Mr. **Liederman**. OK.

Senator **Dodd**. Thank you.

Mr. **Liederman**. Mr. Chairman, first let me say thank you to you for your efforts on this issue, but not only on this issue but for all of your efforts on behalf of kids in the Senate. We really appreciate it.

Senator **Dodd**. Thank you.

Mr. **Liederman**. This is a major issue for children in this country, and we think that it deserves the kind of attention that you are giving it, and we support S. 2548 and hope that you will move forward on it.

We think that a positive work experience for a teenage can provide a good start to a successful adulthood. Clearly, taking responsibility, being on time, learning how to be dependable, learning how to cooperate with fellow employees—those are all good important values and good skills that kids need to learn. And if it done right, in the right kind of atmosphere, it can be a very positive experience, and we support it. Particularly if kids are doing these part-time jobs while they are in school, it becomes even a better experience. Unfortunately, that is not the case. Kids are not getting this—they are not in school. They are not learning the basic skills. They are not becoming more knowledgeable while they are working part time.

We have had studies from researchers from the University of California and from the University of Wisconsin which you point out in your own statement, Mr. Chairman, that indicate that kids who are working have lower grades, they are missing school more often, and they are more likely to use drugs and alcohol. The Harvard School of Education tells us that a third of the 10th graders in the United States hold paying jobs, and 60 percent of the 12th graders are working more than 20 hours a week.

You know, I think what is happening here—and it is really troubling—is that in every major city in the United States we see school dropouts rates of over 50 percent. I was just in St. Petersburg last Friday, and they just released a report for the State of Florida. For the entire State of Florida, the school dropout rate is over 50 percent. So the kids, instead of being in school, are dropping out of school, and they are going into low-paying, dead-end jobs that are absolutely going to lead them to nowhere. While our youth are trading classroom time for a paycheck, other nations' kids are in classroom training for a better future. While our kids are selling French fries and potato chips, other nations' youth are in school learning how to make computer chips. I think therein lies the problem.

There is such a relationship between education and employment, and I don't get a sense, Mr. Chairman, that there are any formal relationships going on between corporate America and what is happening to kids in industry in this country and in all of the industries that people who have testified here today have pointed out, and education. And I think we need to change that.

We give kids a false sense of security when they are in these low end jobs. The same few bucks that looks terrific when you are 14 or 15—you know, you are making a few bucks. You think you are really doing good. You've got a few bucks, and when you are 14 or 15, it looks big. When you are 20 and you have got one or two kids and you are in that same job, that same few bucks doesn't look very big. And it really doesn't help you or your family.

I think we need to change that. It is really important that we begin to look at this as part of a bigger problem. And I know you do, Mr. Chairman, and I think Senator Jeffords does, and we thank you for that. But this is like the tip of the iceberg. What we are seeing is the fallout from social policies in this country—from lack of social policies, from lack of any kind of children's policy in this country that really looks at what is happening to kids and what we are doing and what we are not doing. And I think we really need to change that.

I would just make one final point. Sometimes we talk about kids, our kids who are in college who are athletes, and how important it is for them to stay in school and finish school. And we commend folks like John Thompson and Digger Phelps and others who are coaches who really take an interest in the kids and who really make an effort to try to keep the kids in school because we know they are kids and it is important for them to stay in school. What responsibility do the employers have with 14- and 15-year-olds?

Some of the provisions that you have in the bill are really crucial, particularly requiring attendance and certifying that kids are in school. In many ways, employers should be looking at kids and working with kids in similar ways and take on that kind of responsibility. And it is important that that happen.

So thank you for your efforts.

[The prepared statement of Mr. Liederman follows:]

DAVID S. LIEDERMAN, EXECUTIVE DIRECTOR, CHILD WELFARE LEAGUE OF AMERICA, INC.

Good morning, Chairmen Dodd and Metzenbaum and Members of the Panels. My name is David Liederman and I am the Executive Director of the Child Welfare League of America (CWLA). Thank you for the invitation and opportunity to appear before your Subcommittees today to express our views on child labor issues and support for S. 2548, The Child Labor Act of 1990, which was recently jointly introduced by both of you.

The Child Welfare League of America is the oldest and largest membership organization of child welfare providers with more than 550 member agencies and 1200 affiliates throughout North America. We are comprised of both public and voluntary not-for-profit providers serving 2.3 million children, youth and families in need of family support services, emergency shelter, out-of-home care (including foster family, group care and residential treatment) adoption and teen pregnancy services.

In its early history, the Child Welfare League lent its support to the child labor movement; it is therefore fitting that we should be here today to lend our support for your efforts, Mr. Chairmen and the efforts of the other witnesses to strengthen and enforce the child labor laws currently existing in this country. We believe this is necessary given the recent news stories and reports of the General Accounting Office as well as the Department of Labor which are reminiscent of the first part of this century when we had no such laws and children went unprotected against workplace exploitation. When the General

Accounting Office indicates a nationwide increase of 112% in child labor violations between 1983 and 1987; when the State of Massachusetts shows a 614% increase over the same period time; when New York City experiences an increase of 487% in just one year (from 1987 to 1988) and when the Department of Labor detects 22,500 illegally employed minors in 1989, Mr. Chairmen, it is time for serious and meaningful action. We commend you for your leadership in seeking such action and stand ready to assist and lend our support.

A positive work experience for a teenager can provide the best start into successful adulthood. The workplace is where one learns important values: being on time, being dependable, following-through on a task, cooperating with fellow employees, and learning to be responsible for mistakes as well as a job well done. Unfortunately, however, there are negative effects as well. According to a study of Orange County, California high school students, students who worked compared with those who did not had lower grades, missed school more often, enjoyed school less, and used more cigarettes, marijuana and alcohol. Importantly, the study also found that if work consumes too much time -- more than fourteen hours a week for sophomores and nineteen hours a week for seniors -- their grades fall by half to three quarters of a point. These figures become particularly disturbing when you consider that the Harvard Graduate School of Education reports that today, more than a third of 10th graders hold paying jobs and three out of every five 12th graders are employed an average of 20 hours per week. Therefore, 60% of our 12th graders are jeopardizing their educational future and the future of this nation's ability to be competitive in the world market. To quote New York Labor Commissioner Thomas Hartnett, "Going to school is a child's most important job. Ensuring that children have the opportunity to develop the skills we will require of them in the future is our most important obligation."

Mr. Chairmen, we couldn't agree more with Commissioner Hartnett. Going to school should be a child's most important job but it is a job from which they are increasingly absent. We all know that America is losing its competitive edge in the global economy and that our hope in re-securing our place in the international market rests with the youth of today and the education they receive. And, yet America's youth are trading classroom time for a better paycheck next week while other nations' youth are in the classroom training for a better future.

If this trend continues, American business will reap the short term profit of lower wage scales but pay the long term price of a continued decline in technological innovation and worker productivity. We owe it to our children and to our future to assure that they emerge into the adult workforce with a solid education and skills that help them to help us move into the 21st century. We must strike a better balance in insuring that America's youth get a sound education first while allowing for a positive work experience.

Moreover, as you well know, we must also step up our enforcement of existing child labor laws. Too many teenagers today are working beyond the legal number of hours established by the Fair Labor Standards Act, too many youths are working in employment that is restricted by the Act and too many children under age 14 are working despite prohibitions against such employment. The Department of Labor found that the number of minors working illegally in 1989 was higher than in 1983 in 42 states and in all 10 Department of Labor regions. And, the increase in violations occurred in every type of child labor standard: hours, minimum age, and hazardous restrictions. The greatest growth occurred in work-hour violations, which tripled from about 5000 in 1983 to over 15,000 in 1989. Work-related injuries in 26 states show that in 1988, children under age 18 suffered over 31,500 work-related injuries and illnesses. In New York, 1986 data from the state workers' compensation board indicated that 1,333 awards were made to children under 18 years of age, 41% of which were made for a permanent disability.

As I stated earlier, it is time for serious and meaningful action. CWLA believes that S. 2548 provides a step in the right direction. We fully support the criminal sanctions for willful violations of child labor laws that result in the death or serious bodily injury to a child. We support increasing the maximum civil fine per violation but would suggest that consideration be given to basing the fine on a percentage of gross income or receipts, with $10,000 per violation as the minimum. While $10,000 may seem like alot of money to some of us, to a multi-million dollar retail establishment or agribusiness, it could be quite meaningless. We applaud and strongly support the provisions that would make ineligible for federal grants or loans repeat violators of child labor laws; making available to affected school districts the name of violators; and requiring certification of school attendance for purposes of child labor certification.

We would, however, respectfully suggest that you give consideration to amending S. 2548 during mark-up to include a provision similar to that contained in H.R. 4743, which was recently introduced in the House by Representatives Pease (D-OH) and Schumer (D-NY). This provision would require the Department of Labor and U.S. Census to compile annual data on the types of occupations in which children under 18 are employed, the number of child labor violations, and the number of work-related injuries and illnesses to youth under age 18. We believe that this kind of information collected on a national level and annual basis would establish an ongoing oversight mechanism into such problems and enable Congress to react on a timely basis to such problems.

Again, we thank you for the opportunity to testify and look forward to working with you as you seek to provide further protections for children and youth within national child labor statutes.

Senator **Dodd**. Thank you. Once again, you are on the cutting edge of all of these issues, and it is always a pleasure to hear you. What I try to pick up on is tying these things together. It is absolutely essential. They are not separate issues at all. They are directly related, no question about it.

Mr. Oswald.

Mr. **Oswald**. Senator Dodd, I appreciate the ability of the AFL–CIO to express its support for this bill S. 2548. We think it is one of the very important issues this country faces because we believe that education is the most important aspect that children are responsible for during their growing-up years.

We think that the increased sanctions are necessary to substantially curtail the mushrooming number of child labor violations, and we think that they won't answer all the problems but that they will be an effective tool in that regard.

Some of the testimony earlier emphasized the physical harm and death that occurs from child labor. I think that it is important to look at the educational inadequacies and the longer-term health problems that result in child labor, because child labor regulations should be developed to encourage such regulations and to make sure that the workplace is safe, not hazardous to the child's health.

I would like to emphasize certain other elements that you might want to look at in legislating in this area. Earlier testimony spoke a little bit about the hours of work, and Senator Jeffords raised is the current rule of 18 hours for 14- and 15-year-olds appropriate. We would like to see that lowered to 15 hours because we think that that provides a more effective work week for them. And we would like to see a new rule put into effect for 16- and 17-year-olds that would limit work to 28 hours a week for that group when school is in session. We think that that would encourage kids not to drop out of school, because under the current arrangement, 16- and 17-year-olds have no limitation on the hours of work that they can engage in while school is in session. Therefore, if they work more hours, they earn more money, and they can just forget about school because the other is there.

Your bill in Section 4 provides—and we think rightfully so—the requirement that the person meet the minimum State requirements for attending school. We would like to see that moved one step further so that if anybody failed to continue to meet those requirements, that their work permit be pulled, be yanked. It is interesting; West Virginia did something similar in terms of granting driver's licenses, that if somebody were not continuing to attend school, for young people they would revoke the driver's license. We think the same should apply to the work permit.

The other element that we would like to emphasize, while your Section 5 talks about the hazardous industries that need to be banned, we believe that that list and the existing list needs to be updated dramatically. The previous activities of the Labor Department have never really brought up to date those 1940's and 1950's bans. Practically nothing has been done on health hazards except for farm pesticides, and that has been very weak.

We think that a new approach needs to be taken, and normally we don't like to recommend one new study commission. But we would think that because of the failure in the last 50 years to keep these up to date that there needs to be established a specific child labor study commission that would undertake this review. Because of the leadership that you and Senator Metzenbaum and Senator Jeffords and others have provided in this area, we would like to see that commission established in a different way: that half of the members be appointed by the congressional committees with responsibility in this area so that one really has a congressional responsibility in updating this area, not just an administrative responsibility that has not been followed over the last 50 years. We think that that type of approach will bring the current administrative rules up to date.

We think that it is important that child labor laws be used to encourage education as a primary activity of children, and updating the penalties is one small step in effectuating this goal.

Thank you.

[The prepared statement of Mr. Oswald follows:]

Oswald

90-17

STATEMENT OF RUDOLPH A. OSWALD, DIRECTOR
DEPARTMENT OF ECONOMIC RESEARCH
AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS
BEFORE THE JOINT SUBCOMMITTEES ON CHILDREN, FAMILY, DRUGS AND ALCOHOLISM,
AND THE LABOR SUBCOMMITTEE
OF THE SENATE COMMITTEE ON LABOR AND HUMAN RESOURCES
ON THE CHILD LABOR ACT OF 1990

May 8, 1990

The AFL-CIO appreciates the opportunity to support S. 2548, the Child Labor Act of 1990, and to express its views on this extremely important issue.

This bill for the first time provides substantial penalties for egregious child labor law violators. It raises the current maximum civil fine from $1,000 to $10,000 per occurrence and establishes criminal penalties for wilful violations that result in serious bodily injury or death to a child.

These increased sanctions are necessary in order to substantially curtail the mushrooming number of child labor law violations. The information from GAO documents the inadequacies of the current sanctions. While 59 children were killed at work in 1987 and 1988, only 37 of their employers were cited and fined for serious safety and health violations. And the average fine for each workplace fatality was $740. An additional 128,000 children were injured in those years.

But child labor violations not only cause physical harm and death, they may cause educational inadequacies and longer-term health problems. The child labor regulations are designed to encourage education and to circumscribe work so that it does not inhibit education. However, more should be done to ensure that education is appropriately emphasized. The law should be amended to require that children below the age of 18 be required to have a certificate for such employment that would be issued at least annually, so that the work relationship to education is regularly reviewed. Further, the work certification should require approval of the minor's parents, family physician, and local school or State employment security agency officials. Such certification should ensure that the child is physically fit for such employment, and that the proposed employment is safe and is not hazardous to the child's health. Also, it allows a review to assure that the employment does not interfere with the child's schooling.

The current child labor regulations dealing with hours of work for children should be strengthened by this legislation. The maximum hours of work for 14 and 15-year olds should be set at 15 hours per week when school is in session, and for 16 and 17-year olds at 28 hours per week. This would assure a proper balance between work and school for children.

Section 4 of S. 2548 sets forth the requirement that the certificate ensures the person is at least meeting the minimum State requirements for school attendance. This provision should be strengthened to provide that the certificate be revoked if such school attendance is not maintained.

The basic occupation for all young persons should be their education. The message should be clear that education comes first and that work is a secondary priority.

Yet, there are and will be young persons who will, or must work and some whose education can be furthered by work. For these young workers, government must ensure that they are not exploited, and that their work is safe, healthful and protective of their general well-being.

Section 5 of S. 2548 sets forth various specific hazardous occupations and hazardous industries that clearly should be banned for child labor below the age of 18. Poultry processing, paper baling, fish and seafood processing, school bus driving (as well as any commercial driving) and handling power-driven meat-slicing machines in restaurants are all appropriate candidates for the restricted list. Each of these occupations and industries are demonstrably hazards to life or limb.

However, more must be done to assure an updating of the existing list of hazardous orders. The existing regulations fail to address health hazards to children, with the one exception of farm pesticides. The active presumption is that the health risk to children is the same as to adults. The Occupational Safety and Health Administration standards are based on adult exposure risks, but there are differences between the effect of toxic exposures on children and adults. The best known example is lead exposure. Lead has a much more deleterious effect on maturing children than adults.

The regulatory process should be reaching and addressing health risks to young workers. For many types of exposure, there may be no difference, but to assume there is no difference is likely to be a tragic mistake--a mistake that may not surface for 30 years.

The AFL-CIO is proposing a total review of the child labor regulations promulgated by the Secretary of Labor basically in the 1940s. This is a large task, but one that needs to be done. The AFL-CIO believes this is an unusual area where a statutory advisory committee is an appropriate approach. A statutory advisory committee is needed because the work of the recent Child Labor Advisory Committee created by the Department of Labor has been thwarted by lack of support by the Department of Labor.

The bill should establish a special advisory committee for this purpose with half of the members appointed by the appropriate Congressional Committee and half by the President. The Committee might look at the National Economic Commission as a model for the appointment process and give the Commission four years to report to the Congress and the Secretary on the appropriate standards that should be incorporated into the Child Labor Regulations.

Child labor laws need to encourage education as the primary activity of children. Updating the penalties for child labor law violations is one small step in effectuating this goal.

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Senator **Dodd**. Thank you very much.

We are getting down to the witching hour here. Jim, why don't you jump in?

Senator **Jeffords**. I think in view of the time, we have a vote on and not many minutes left to go, that we would submit written questions to you. Very excellent testimony, very helpful testimony. We certainly will rely upon you to assist us as we move forward, not only on this particular piece of legislation but also to tie all of these things together so that we keep the kids in school and we keep them safe. I think those are our goals.

We appreciate the very enlightening testimony you have given us here today.

Senator **Dodd**. I apologize to you as well. We will obviously be getting some written responses from you on some of the specific questions we would like to raise. I think you have raised some excellent points here on things that I would have no difficulty trying to incorporate as part of the legislative package here as we move it along, particularly in some of the study areas. I think it is an intriguing idea. We would probably have overwhelming support for congressionally appointed people since we never get a chance—— [Laughter.]

You had the right audience for that suggestion, I'll tell you.

Senator Metzenbaum as well would like to apologize to all of you for being called away to a Judiciary Committee meeting, but will have some questions for you as well. We count on your active involvement in this legislative initiative, and we obviously will have to have some additional comments.

[The questions and answers of the Senators and additional copy follow:]

QUESTIONS FOR DEPARTMENT OF LABOR ON CHILD LABOR
FROM SENATOR ORRIN G. HATCH

Q. Assistant Secretary Brooks, I would like to clarify a few points about the Hazardous Orders (H.O.'s) promulgated by the Secretary which are designed to prohibit work which is determined to be "particularly hazardous" to the safety and health of young people between the ages of sixteen and eighteen years.

In the introduction to one Department of Labor report, a Report of an Investigation on the Advisability of Amending Hazardous-Occupations Order No. 10 to Include Meat Patty Machines, which was produced 1963, it is stated that decisions on whether or not certain occupations and occupational activities are "particularly hazardous" are based on investigations which produce evidence about the "types of machines that have been manufactured, the injury experience of such machines, and recommendations for safe operation."

My question is this: if the purpose of such investigations are to assess the technology and conditions which create particularly hazardous situations, could you compile a list the titles, and dates published, of each investigation having been conducted for each H.O. currently in effect. In addition, please describe the Department of Labor's policy for updating existing Hazardous Orders to guarantee that changes in technology are considered so that individual opportunity to work is not deprived on the basis of information no longer valid?

Q. In the Department's testimony, an intradepartmental task force is referenced. The purpose envisioned for this task force is to ensure that the Department's approach to formulating and enforcing regulations is effective. Please describe the mission for this task force and the timetable and issues which will be investigated.

Q. As a member of this task force, the Occupational Safety and Health Administration will consider health and injury data necessary to support regulatory decisions. Please describe why OSHA's advice is needed in this area and whether this advice will contain guidance in the enforcement area?

QUESTIONS ON CHILD LABOR FOR PANEL 3
FROM SENATOR ORRIN G. HATCH

Q. Ms. Golodner, having served as the Chairperson of the Child Labor Advisory Committee, perhaps you can clarify a few points about the recommendations made by this group. The minutes of the meetings, in several areas, reflect your frustration over the quality and quantity of data and other evidence you were given. If you had such problems getting the Department of Labor to cooperate, how in the world did the Committee evidence the soundness of its recommendations?

Q. Mr. Oswald, you advocate in your testimony a system under which all youth below the age of 18 would be required to have a certificate to work which included approval of the child's parents, family physician and a local school or State employment security agency official.

Experience has demonstrated that some individuals, particularly those from low-income families, simply will not go through these certification procedures and instead, try to enter the labor market illegally. In turn, employers may begin demanding more and more identification from anyone who looks as if they could be under 18 in order to protect themselves. Since those who traditionally have problems producing such identification are also low-income individuals, couldn't such a system have a sweeping discriminatory impact?

Q. Mr. Oswald, the certificate system I just mentioned would revoke a work certificate if a youth under 18 dropped out of school. Does this mean that the AFL-CIO is advocating a Federal law for mandatory school attendance through age 18? Certainly, that is the impact such a provision would have.

Q. Mr. Oswald, you note dramatic differences between the health risks faced by children and adults. The Wage and Hour Division has no technical experience in assessing safety or health risks. Does this mean that the AFL-CIO would advocate transferring the responsibility for enforcement and/or promulgation of hazardous orders to OSHA?

Q. Mr. Liederman, in your testimony you refer to the fact that U.S. Department of Labor enforcement statistics demonstrate that child labor violations tripled from 1983 to 1989. While I will not argue that violations are increasing, I wonder how reliable these statistics are. Since your familiar with these statistics, please explain why child labor violations dropped between 1979 and 1983. I assume the reductions in the number of violations were not due to the budget cuts in those years were they? And if they were, how much of the recent increase might be due to increased enforcement efforts by the Department of Labor?

Submitted Questions of Senator Howard M. Metzenbaum, Chairman, Subcommittee on Labor for the Department of Labor, at the Hearing on S. 2548, The Child Labor Act of 1990, on May 8, 1990

1) The Department's recent three-day undercover sting operation was highly publicized in the media. What did the Department do to make sure that the identities of child labor law violators, and the exact nature of the violations, was disseminated to the people most affected by these violations: teenagers and their parents?

2) As I said in my opening statement, the cost of a movie ticket has gone up more in the last 6 years than the cost of violating federal child labor laws. Does the Department believe that an average fine of $165 is appropiate in cases where a child has died or suffered serious bodily injury because of a willful violation of federal child labor laws? Do you think that a fine of $1000 is even enough when a child has died or been seriously injured?

3) On May 1, Mr. Davis testified before the Subcommittee on Labor that the Department supports my OSHA criminal penalty reform bill (S.2154), which increases the penalty for a willful OSHA violation resulting in death from a misdemeanor to a felony. The Child Labor Act of 1990 has a similar provision: it increases the penalty for a willful FLSA violation that causes the death of a child from a misdemeanor to a felony. Can you give any reason why we should treat a violation relating to the death of a child more leniently than we treat a violation relating to the death of an adult?

4) Finally, let us look at an example where there may be a willful FLSA violation resulting in death, but no willful OSHA violation. Suppose a twelve year old dies after injuring himself while operating a meat slicer in an establishment covered by the FLSA. Although the condition of that slicer may meet OSHA's safety requirements, it is a clear violation of federal child labor laws to allow a minor to operate this machine. Thus there may be no OSHA violation, even though there is a willful FLSA violation that caused the death. Does the Department agree that such a violation should be subject to a felony penalty?

Submitted Question of Senator Howard M. Metzenbaum,
Chairman, Subcommittee on Labor
for Ms. Linda Golodner, Executive Director, National Consumer's League
at the Hearing on S. 2548, The Child Labor Act of 1990, on May 8, 1990

--I know that your organization is concerned with educating the public about the exploitation of children in the workplace. What steps have you taken and do you suggest be taken to achieve this goal?

Submitted Question of Senator Howard M. Metzenbaum,
Chairman, Subcommittee on Labor
for Mr. David Liederman, Executive Director,
Child Welfare League of America, at the Hearing on S. 2548,
The Child Labor Act of 1990, on May 8, 1990

--You have recommended that we require additional data-gathering on child labor issues. How much of an investment would be required by the Department of Labor to compile such data? How difficult would it be for employers to provide this information?

Submitted Question of Senator Howard M. Metzenbaum,
Chairman, Subcommittee on Labor
for Mr. Rudy Oswald, Director, Department of
Economic Research, AFL-CIO, at the Hearing on S. 2548,
The Child Labor Act of 1990, on May 8, 1990

--Although illegal child labor is a national problem, it has special impact upon certain industries. Are there particular unions within the AFL-CIO that have a strong interest in this problem? If you believe that they have some contribution to make, we would be interested in hearing from them in writing before the record closes.

Responses to Submitted Questions of Senator Howard M. Metzenbaum, Chairman, Subcommittee on Labor, for the Department of Labor, at the Hearing on S. 2548, The Child Labor Act of 1990, on May 8, 1990

Question:
Senator Metzenbaum

The Department's recent three-day undercover sting operation was highly publicized in the media. What did the Department do to make sure that the identities of child labor law violators, and the exact nature of the violations, was disseminated to the people most affected by these violations: teenagers and their parents?

Answer:
DOL

On a biweekly basis since April 3, the Department has publicly announced the lists of violators. The lists identify those businesses cited for child labor violations under the Fair Labor Standards Act (FLSA) as a result of the completion of strike force investigations. The lists contain identifying information, as well as specific information about the violations for which civil money penalties were assessed. They have been provided to all Members of Congress and, upon request, to the media and the public.

As a result of publication of the names of businesses assessed penalties, many firms are seeking technical assistance from the Department concerning compliance with the child labor provisions of FLSA. We think that the release of these lists of violators not only increases awareness of the law for businesses, but also for children, parents, and educators.

All of our efforts in recent months have been aimed at promoting public awareness of and wider compliance with child labor laws. Our extensive use of media nationwide has provided very effective communication. This has included national and regional press releases issued by the Department and newspaper, radio, and television interviews given by top officials of the Department. We have also met with interested parties, including those in the field of education, to disseminate information.

We are considering other means by which we can educate employers and the general public, including an educational outreach effort to ensure that school systems are fully familiar with the child labor laws, and, to the extent possible, are enrolled in the process of effectively conveying this information to their students.

Question: Senator Metzenbaum	As I said in my opening statement, the cost of a movie ticket has gone up more in the last 6 years than the cost of violating federal child labor laws. Does the Department believe that an average fine of $165 is appropriate in cases where a child has died or suffered serious bodily injury because of a willful violation of federal child labor laws? Do you think that a fine of $1000 is even enough when a child has died or been seriously injured?
Answer: DOL	We have demonstrated our support for increased penalties for child labor violations by changes we made to our penalty schedule, changes which substantially increased penalties within the current statutory limit of $1000 per violation. Our focus has been on seeking ways to stop the flagrant violator who considers our current penalties simply as a cost of doing business. We believe that any regulatory or legislative changes should address that specific need. We do not want to impose onerous requirements that discourage employers generally from hiring youth in safe, legal employment. We have been looking very carefully at this issue and are exploring what additional changes might be appropriate to assess higher penalties for flagrant violators. We are actively considering whether to support raising the maximum civil money penalty beyond the $1000 statutory limit. But it would be premature for me to discuss the specifics of what changes the Department is considering.

Question:
Senator Metzenbaum

On May 1, Mr. Davis testified before the Subcommittee on Labor that the Department supports my OSHA criminal penalty reform bill (S. 2154), which increases the penalty for a willful OSHA violation resulting in death from a misdemeanor to a felony. The Child Labor Act of 1990 has a similar provision: it increases the penalty for a willful FLSA violation that causes the death of a child from a misdemeanor to a felony. Can you give any reason why we should treat a violation relating to the death of a child more leniently than we treat a violation relating to the death of an adult?

Answer:
DOL

Senator Metzenbaum, before proceeding to answer your question, I must first correct the assumption it makes regarding the Department's support for S. 2154. While it is true that Assistant Secretary Scannell in his May 1 testimony concurred in that part of your bill that would change the characterization of OSHA criminal death cases from misdemeanors to felonies, that is only one aspect of your bill. As to most of the bill's other provisions, the Department either did not support them or did not specifically address them in its testimony. So the general representation that the Department supported S. 2154 is not accurate.

Now, as to the question you have asked regarding child labor, the basic question is whether child labor criminal penalties should be raised. We think that your proposed legislation raises the right questions on this issue. We are studying the appropriate answer in light of our objective of achieving compliance; and in light of our increasing use of civil penalties, injunctive actions, and existing criminal penalties.

Question: **Senator Metzenbaum**	Finally, let us look at an example where there may be a willful FLSA violation resulting in death, but no willful OSHA violation. Suppose a twelve year old dies after injuring himself while operating a meat slicer in an establishment covered by the FLSA. Although the condition of that slicer may meet OSHA's safety requirements, it is a clear violation of federal child labor laws to allow a minor to operate this machine. Thus there may be no OSHA violation, even though there is a willful FLSA violation that caused the death. Does the Department agree such a violation should be subject to a felony penalty?
Answer: DOL	As indicated in our previous response, we are carefully studying the issue of civil and criminal penalties, but it is premature for me to comment on the specifics.

Responses to Questions for Department of Labor on Child Labor
From Senator Orrin G. Hatch

Question: **Senator Hatch**	Assistant Secretary Brooks, I would like to clarify a few points about the Hazardous Orders (HOs) promulgated by the Secretary which are designed to prohibit work which is determined to be "particularly hazardous" to the safety and health of young people between the ages of sixteen and eighteen years. In the introduction to one Department of Labor report, a *Report on an Investigation on the Advisability of Amending Hazardous Occupations Order No. 10 to Include Meat Patty Machines*, which was produced in 1963, it is stated that decisions on whether or not certain occupations and occupational activities are "particularly hazardous" are based on investigations which produce evidence about the "types of machines that have been manufactured, the injury experience of such machines, and recommendations for safe operation."

My question is this: if the purpose of such investigations are to assess the technology and conditions which create particularly hazardous situations, could you compile a list of the titles, and dates published, of each investigation having been conducted for each HO currently in effect. In addition, please describe the Department of Labor's policy for updating existing Hazardous Orders to guarantee that changes in technology are considered so that individual opportunity to work is not deprived on the basis of information no longer valid?

Answer:
DOL

Table 1 contains a list of reports of the initial investigations conducted for each HO currently in effect. Investigation reports that formed the basis for amending any of these HOs are shown on Table 2, to the extent that this information is available. We believe that additional investigation reports were prepared, but we have been unable to locate them.

The Department's policy for updating existing HOs is being developed through the efforts of the intradepartmental task force on child labor. The task force will seek to ensure that we are capturing appropriate data to consider, develop, and issue sensible, defensible regulations where technological changes require them. In doing this, we are looking to improve data on the causes of injuries and deaths for minors and to use the safety expertise of OSHA in reviewing HOs. We will be looking to identify areas where more needs to be done, as well as those areas that may no longer pose a hazard due to changing workplace technology.

Question:
Senator Hatch

In the Department's testimony, an intradepartmental task force is referenced. The purpose envisioned for this task force is to ensure that the Department's approach to formulating and enforcing regulations is effective. Please describe the mission for this task force and the timetable and issues which will be investigated.

Answer:
DOL

The intradepartmental task force on child labor will coordinate information sharing, research, and policy development efforts. It will seek to identify and develop meaningful health and injury data essential to policy decisions. The task force will also advise whether there should be an adjustment or supplementation of the manner in which the Department regulates hazardous occupations. The present approach, which tends to rely on machine-specific HOs, may not be as flexible as we want it to be to accommodate fast-changing workplace technology and conditions.

The task force has met and is in the process of establishing a work plan. An initial report of the task force is planned for September 1990.

Question:
Senator Hatch

As a member of this task force, the Occupational Safety and Health Administration will consider health and injury data necessary to support regulatory decisions. Please describe why OSHA's advice is needed in this area and whether this advice will contain guidance in the enforcement area.

Answer:
DOL

The Department is committed to using all of its available resources to ensure safe employment for our youth. Most of the injury data collected by the Employment Standards Administration, through the Wage and Hour Division, relates to our actual enforcement experience under FLSA. OSHA has special technical expertise relating to workplace safety that we believe could be very useful in our effort to develop meaningful health and injury data essential to reviewing the HOs and making policy decisions regarding safe youth employment.

The task force was not set up to provide enforcement guidance.

TABLE 1: Occupational Hazards to Young Workers Initial Investigation Reports

Report	Hazardous Occupations Order (HO) No.	Year Published
No. 1	The Explosives Manufacturing Industries, HO No. 1	1942
No. 2	Motor-Vehicle Drivers and Helpers, HO No. 2	1941
No. 3	The Coal-Mining Industry, HO No. 3	1942
No. 4	The Logging and Sawmilling Industries, HO No. 4	1942
No. 5	Woodworking Machines, HO No. 5	1942
No. 6	Radioactive Substances, HO No. 6	1942
No. 7	The Operation of Hoisting Apparatus, HO No. 7	1946
No. 8	The Operation of Power-Driven, Metal-Forming, Punching, and Shearing Machines, HO No. 8	1950
No. 9	Mining Other Than Coal, HO No. 9	1951
No. 10	Slaughtering, Meat-Packing. and Rendering HO No. 10	1952
No. 11	Hazards in Operating Bakery Machines, HO No. 11	1952
No. 12	The Operation of Paper-Products Machines, HO No. 12	1955
No. 13	The Manufacture of Brick, Tile, and Kindred Products, HO No. 13	1956
No. 14	The Operation of Circular Saws, Band Saws, and Guillotine Shears, HO No. 14	1960
No. 15	Wrecking and Demolition Operations, HO No. 15	1960
No. 16	Roofing Operations, HO No. 16	1962
No. 17	Excavation Operations, HO No. 17	1963

TABLE 2: Occupational Hazards to Young Workers
Supplementary Investigation Reports

Report	Hazardous Occupations Order (HO) No.	Year Published
No. 4-A	HO No. 4 -- Amended due to war effort to permit employment in certain sawmilling occupations.	1942
No. 4-C	HO No. 4 -- Amended to include most occupations in the logging of pulpwood, chemical wood, excelsior wood, cordwood, fence posts, and similar work.	1948
Report	HO No. 6 -- Amended to include ionizing radiations and radiations emitted from sealed sources of radioactive materials and to set permissable limits for exposure to radioactivity for minors under age 18.	1957
Report	HOs Nos. 5, 8, 12 -- Amended to revise student-learner exemptions under HOs Nos. 5 and 8 to conform with HO No. 12 exemption, as amended.	1958
Report	HOs Nos. 8, 10, 11, 12 -- Amended to prohibit setting up, adjusting, repairing, oiling, or cleaning machines covered by these HOs.	1960
Report	HO No. 10 -- Amended to include meat patty forming machines.	1963
Report	HO No. 4 -- Amended to allow for exceptions to permit minors under age 18 to cleanup outside shake and shingle mills, split shakes manually, pack shakes into bundles, and manually load shake and shingle bundles.	1966

1/ Reports prepared in conjunction with amendments to HOs.

National
Consumers
League
Founded 1899

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Linda F Golodner Executive Director

May 22, 1990

Mr. James J. Brudney
Chief Counsel and Staff Director
Subcommittee on Labor
Senate Committee on Labor and Human Resources
Washington, DC 20510-6300

Dear Mr. Brudney:

This is in response to your letter of May 14 regarding additional questions that Senator Metzenbaum and Senator Hatch asked to supplement my testimony on the Child Labor Act of 1990, S. 2548.

Question of Senator Metzenbaum: I know that your organization is concerned with educating the public about the exploitation of children in the workplace. What steps have you taken and do you suggest be taken to achieve this goal?

The National Consumers League (NCL) recognizes that the public has a right to know about the exploitation of children in the workplace. The public includes youth; their parents or guardians; employers; others who are concerned about children, for example, the education groups and youth organizations; and legislators and government agencies who are responsible for public policy initiatives and enforcing the law. A year ago, in commemorating our 90th year of advocacy, the NCL announced that we would devote additional resources to the issue of child labor. NCL has worked with the media to help investigate and report on exploitation of children in the workplace. In the past year, several stories and articles have appeared through print, radio and television on the issue of child labor. We hope that we have in part been responsible for some of this activity.

In addition, the League has participated in forums and has had other public speaking opportunities to educate the public about child labor. One such forum -- held on Capitol Hill in November of 1989 brought together hundreds of organizations to discuss in a day-long session the exploitation of children around the world.

Together with the American Youth Work Center and the International Labor Rights Education & Research Fund, we have organized the Child Labor Coalition to work on domestic and international child labor problems. This group has met several

Officers: Robert R. Nathan, Honorary Chairman · Esther Peterson, Honorary President · Jack Blum, President · Ruth Jordan, Vice President · Bert Seidman, Vice President · Jane King, Secretary · Barbara Warden, Treasurer

times and will hold a forum here in Washington on May 30, bringing together experts to educate the public about exploitation.

The National Consumers League has also worked with State Departments of Labor to develop strong state legislative initiatives on child labor.

What we and other organizations have tried to do through the media and through our national network of organizations should be reinforced by a national public education program by the U. S. Department of Labor. This public education program should include clear, plain language information to young people, their parents or guardians, and to employers and others who are appropriate, about their rights and responsibilities under the child labor provisions of the Fair Labor Standards Act. This should be in conjunction with schools, church groups, youth organizations, and the state Departments of Labor. It is very important that there be coordination with the state Departments so that information that might appear to be conflicting is explained to the public. For example, some states have declared some occupations hazardous that the Federal law does not cover, and vice versa. The public information program should be continuous and made part of the Department's ongoing public affairs agenda. It should also be multi-faceted -- including public speaking engagements of compliance officers and other labor officials in the schools and other public forums; use of public service and media outlets; and printed and video presentations.

Question of Senator Hatch: Ms. Golodner, having served as the Chairperson of the Child Labor Advisory Committee, perhaps you can clarify a few points about the recommendations made by this group. The minutes of the meetings, in several areas, reflect your frustration over the quality and quantity of data and other evidence you were given. If you had such problems getting the Department of Labor to cooperate, how in the world did the Committee evidence the soundness of its recommendations?

Senator Hatch, in response to your question regarding the Department of Labor Child Labor Advisory Committee, let me first tell you about the make-up of the Committee -- we are from education, youth and parent organizations, organized labor, civic organizations, the business community, safety, and state government organizations. Many of us work on issues of concern to children and the workplace daily. The staff and resources for the Committee are from the Child Labor Division of the Department and from the related divisions within the Department including the Solicitors Office and OSHA.

The Committee has assumed its responsibility seriously and has spent many hours during the meetings and outside of the subcommittee and full committee meetings to do independent research and gather information not available directly from the Department of Labor.

I know I can speak for the Committee to assure the Senator that there was thorough research and discussion by the Committee before voting on and presenting the recommendations to the Department of Labor.

The Committee was divided into subcommittees -- one to review Regulation 3, setting labor standards for 14- and 15-year olds; one to review Hazardous Occupation Order No. 2, transportation; another to review Hazardous Occupation Order No. 10, meat slaughtering and slicing machines; a subcommittee on Hazardous Occupation Order No. 11, regarding baking equipment; and another on hazardous occupation Order No. 12, regarding paper baling machines.

Without going into all the research techniques and information gathered on each recommendation, let me provide for you and the subcommittee an example of the type of work done by the Child Labor Advisory Committee.

The subcommittee reponsible for Regulation 3 used the following criteria on which to base decisions:

First, with regard to expanding the permissible periods of work for 14- and 15-year olds and expanding the time restrictions presently in the law, the Subcommittee reviewed the original studies and recommendations from the time the regulation was written in 1939 and reviewed amendments to the provisions from that time. The Department provided history and documents from young persons, national associations representing employers, educators, State officials, child advocacy groups, consumer organizations, organized labor, child guidance professionals, and individuals. In addition to these materials, the Subcommittee also studied background materials, including state restrictions on the hours of work for 14- and 15-year olds, articles and studies on changing demographics, including Workforce 2000, the Hudson Institute study. The Subcommittee also conferred with staff in the Wage and Hour Division and the office of the Solicitor on this issue. The Subcommittee developed and used a force field analysis to rate the advantages and disadvantages of expanding the hours of work for such youth. A "force field" analysis, as defined by the Subcommittee, indentifies and lists the positive and negative factors which will result from a given action, such as increasing the hours of work, as it affects a critical issue. The following factors were included in the analysis:

1) The relationship of work to school (attentiveness, attendance, time to perform school work, commitment to school work, interest in extracurricular activities). 2) Appropriate developmental environment (exposure to appropriate role models, proper supervision). 3) Wages and other economic factors (relationship between the value of work and the actual compensation). 4) Health and safety considerations (working conditions, safety conditions, and conditions injurous to health).

and 5) Enforceability (fair, realistic, easily understood and ability to comply).

These criteria were used in making the recommendation not to expand hours or change the number of hours in Regulation 3 and in recommending that there be no exception to Regulation 3 for the occupation of batgirl or batboy in professional baseball. The full Committee concurred with the Subcommittee recommendations.

This Subcommittee also made a recommendation that the occupation of door-to-door sales be prohibited for 14- and 15-year olds. This conclusion was reached after reviewing the many abuses of young people in this industry. They reviewed information dating from 1984 when the Interstate Labor Standards Association recommended establishing a national clearinghouse to gather information regarding exploitation of young people including indentured servitude, physical and sexual abuse, and criminal activity. The Subcommittee was provided a number of documents, including court briefs, Congressional hearings and correspondence. The Subcommittee also received comments from industry representatives and attorneys representing them. The Subcommittee originally had considered recommending the certification of firms engaged in door-to-door sales; however, after one subcommittee member personally interviewed several state labor standards officials regarding the pervasive exploitation of children in this industry and from gathering material regarding the lack of enforcement (and inability to enforce) by the Department of Labor in another certified industry -- industrial homeork -- it was decided that because of widespread violations, the subcommittee would recommend this as a prohibited occupation. The full committee concurred.

I hope this example provides you a clearer picture of the thoroughness with which the committee has worked. The frustration expressed in trying to do our work in spite of the lack of data has been noted in the meeting minutes as you mentioned. The Committee has attempted to do its job; however, by conducting our own research, going on site visits and using some common sense -- such as noting that it is the machine that is hazardous and not the end product; that cleaning an exposed blade is as dangerous as using the slicing machine to process a product; and that what occupations cause injury to adults will also cause injury to children. We have also relied on the the language of the law as our guide -- that work should not interfere with the schooling of youth or with their health and well-being.

I would be happy to discuss this issue further with you or other members of the Subcommittee as I am sure would other members of the Child Labor Advisory Committee.

Sincerely,

LINDA F. GOLODNER
Executive Director

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May 25, 1990

James J. Brudney
Chief Counsel and Staff Director
Subcommittee on Labor
U.S. Senate
Washington, DC 20510

Dear Mr. Brudney:

This will respond to your letter of May 14th by providing answers to the questions raised by Senators Metzenbaum and Hatch for the record.

(1) (From Senator Metzenbaum)

Q. You have recommended that we require additional data gathering on child labor issues. How much of an investment would be required by the Department of Labor to compile such data? How difficult would it be for employers to provide this information?

A. The investment, at least in terms of dollars, would not have to be that great. For example, schools could be required to forward their certificates to their state labor departments which would in turn forward the data to the Department of Labor. Attending physicians could be required to record and forward to state labor departments data with respect to work-related injuries sustained by persons 21 and under. DoL would then simply aggregate and report the information. It is our understanding that 34 states now require that work certificates be on file at schools; data from those states would be very valuable for these purposes and other states might be inclined to follow suit if they understood how the information would be used.

(2) (From Senator Hatch)

Q. Mr. Liederman, in your testimony you refer to the fact that U.S. Department of Labor enforcement statistics demonstrate that child labor violations tripled from 1983 to 1989. While I will not argue that violations are increasing, I wonder how reliable these statistics are. Since you're familiar with these statistics, please explain why child labor violations dropped between 1979 and 1983. I assume the reductions in the numbers of violations were not due to the budget cuts in those years were they? And if they were, how much of the recent increase might be due to increased enforcement efforts by the Department of labor?

A. The dramatic increase in violations far outstrips any increase in DoL's resources; moreover, the same scale of increases are reported in the states, where resources haven't been increased either. Also, I don't believe that DoL has suggested that their enforcement efforts improved from 1983 to 1989 but rather they tout their 1990 efforts. With respect to the decrease in violations between 1979 and 1983, I would guess that this is probably attributable to the recession, where with high adult unemployment, fewer children were working to begin with.

Thank you for opportunity to submit these answers for the record as well as the opportunity to appear before the Subcommittee on this very important issue.

Sincerely,

David S. Liederman

David S. Liederman
Executive Director

SUBMITTED QUESTION OF SENATOR HOWARD M. METZENBAUM TO RUDY OSWALD, DIRECTOR, DEPARTMENT OF ECONOMIC RESEARCH AFL-CIO

Senator Metzenbaum:

Although child labor is a national problem, it has special impact upon certain industries. Are there particular unions within the AFL-CIO that have a strong interest in this problem? If you believe that they have some contribution to make, we would be interested in hearing from them in writing before the record closes.

ANSWERS BY MR. RUDY OSWALD TO QUESTIONS BY SENATOR HATCH

Question: Senator Hatch	You advocate in your testimony a system under which all youth below the age of 18 would be required to have a certificate to work which included approval of the child's parents, family physician and a local school or State employment security agency official. Experience has demonstrated that some individuals, particularly those from low-income families, simply will not go through these certification procedures and instead, try to enter the labor market illegally. In turn, employers may begin demanding more and more identification from anyone who looks as if they could be under 18 in order to protect themselves. Since those who traditionally have problems producing such identification are also low-income individuals, couldn't such a system have a sweeping discriminatory impact?
Mr. Oswald	Answer: The current law already requires the producing of identification regarding age. The 1988 Immigration Reform and Control Act of 1986 also requires identification of all new employees. Thus the certification process that is being proposed would not be a discriminatory process.
Question: Senator Hatch	The certification system I just mentioned would revoke a work certificate if a youth under 18 dropped out of school. Does this mean that the AFL-CIO is advocating a Federal law for mandatory school attendance through age 18? Certainly, that is the impact such a provision would have.
Mr. Oswald	Answer: The involvement of the school system in the certification is intended not as a mandatory school attendance through age 18, but rather as a process of assuring a relationship of the work process for children below the age of 18 with the school system. It is designed to strengthen the connection between education and work and assure that the child worker maintains a relationship to the school system. The schools have a variety of programs to assist young people and clearly their various programs need to be understood by young workers.
Question: Senator Hatch	You note dramatic differences between health risks faced by children and adults. The Wage and Hour Division has no technical experience in assessing safety or health risks. Does this mean that the AFL-CIO would advocate transferring the responsibility for enforcement and/or promulgation of hazardous orders to OSHA?
Mr. Oswald	Answer: In noting the difference between the health risks and children and adults, the AFL-CIO is not advocating transferring the responsibility for child labor from the Wage and Hour Division to OSHA, but rather the input of OSHA, NIH and others into studies and background for evaluating the health hazards of the work situations for children.

STATEMENT ON VIOLATIONS OF CHILD LABOR LAWS.

JAY MAZUR, PRESIDENT

INTERNATIONAL LADIES' GARMENT WORKERS' UNION

Submitted to the Committee on Labor and Human Resources
Subcommittee on Labor

U. S. Senate

June 1, 1990

A dramatic increase in the numbers of violations of child labor laws has caused shock and consternation across the country. The U.S. Department of Labor responded with a nationwide enforcement sweep last week. We support Secretary Dole's strong response to the problem, but a single well-publicized sweep will not change widespread abuses. Violations of the child labor law are accompanied by a return of exploitative labor conditions not seen since the early decades of the twentieth century. The problem demands more enforcement personnel, more effective penalties, and a willingness to use those penalties aggressively.

The GAO has already established that with under 1,000 enforcement officers nationwide to enforce not only child labor laws, but the entire wage and hour law, the Department of Labor is badly understaffed. It is unrealistic to expect the Department to step up enforcement of child labor law without a significant increase in the number of enforcement personnel.

It is essential, especially in light of inadequate enforcement personnel, that fines be increased and that the worst violators of the law be subject to criminal penalties. Fines for child labor, as for other violations of the labor law, cannot be simply a cost of doing business.

Much of the attention thus far has focused on fast-food restaurants and grocery stores-- traditional employers of teenaged workers. This is an area of real concern. The combination of employers facing a labor shortage for minimum wage jobs and teenagers who want to earn spending money may cause irreparable damage to the education and safety of our young people.

However, there is another kind of child labor abuse, one that is often hidden in inner-city basements or lofts, whose victims often speak no English and may not even be legally in this country. These children do not labor to buy a car or the latest fashions for themselves. Most often the child works alongside his or her mother trying to help her earn enough to keep food on the table for the family.

Child labor abuses in the apparel industry are well-documented. The New York State Department of Labor's Apparel Industry Task Force has made child labor abuses a priority and in 1989 found

145 employers in the garment industry in New York in violation of child labor laws. Similar abuses are found across the country, with large concentrations in any city with significant numbers of immigrants.

The rise of such abuses has coincided with the return of the sweatshop beginning in the late 1970's. Driven by harsh labor cost competition in an industry where imports from third-world countries set the labor standards, the sweatshop has drawn from a growing pool of new immigrants, many of the them undocumented, in need of work that does not require English or working papers.

The sweatshop is characterized by multiple violations of the law -- minimum wage, maximum hour, health and safety, homework, child labor. These shops are most often hidden from the law -- not just labor department inspectors, but tax collectors and union organizers as well. These shops exploit entire families, adults and children alike -- who must all work at very low wages to earn even a poverty level income.

Equally important for Federal policy is that industrial homework is one of the most common abuses in the sweatshop -- and child labor goes hand in hand with industrial homework in the apparel industry.

Ironically, while the Department is pledging a crackdown on child labor, it is still considering lifting the ban on industrial homework in women's apparel, even after hearings in 1989 which showed extensive child labor violations in homework in the women's apparel industry. Taken together these two actions would only push child labor out of the shop and into the home.

In hearings held by the Department of Labor last year, five homeworkers, one from Los Angeles, one from Miami, two from Chicago, and one from a small town in Pennsylvania, testified about their own experiences doing homework, either as children or with their own children. Those stories, in the workers' own words, are appended to this statement.

One additional story which occured early this year will help complete the story of child labor in the home. The following is a report submitted by a Vietnamese woman who is assisting the ILGWU and the NYS Department of Labor fight industrial homework in the Vietnamese community in the Bronx. She has asked that her name not be used.

> "One weekday, I entered a four room apartment in the Bronx. From the outset, I noticed that the apartment was very barren with only a few pieces of

furniture. There were no rugs on the floor, however there were materials strewn about. It was a visible sign of homework. It was a home consisting of a Vietnamese mother and four children, of whom two are amerasians. The mother is middle-age while the children range from 12 - 17 with perhaps one year apart in age. While I was talking to the mother, the children - 1 boy, 3 girls were working on the floor in a remarkably ordered manner. One child was in charge of sewing the bows on an old machine in one corner of the room. The materials are then passed to another child who reverse and cut the excess off the bow materials, which are then passed to the next who glued the bows with a gun. The final step was to place hair clips on the bows which was supervised by the young boy. It was an organized and practiced routine.

"With frankness, the mother describe their schedule. She attend ESL classes in the morning while the children attend the nearby junior and high schools. In the afternoon when they come home the children would start on the work that was delivered daily. Usually the work must be done by pick up time the next day. All of the children are needed to pitch in. Quite often when the work is too much the children have to stay up most of the night to finish. When that occurs, they are always very sleepy and unprepared in class. With a sad expression, she stated that though she knows they are unable to keep up with their classmates, they have no choice because she is unable to work and support the whole family. Though the money they get is poor with $1.20 for a dozen of bows sometimes maybe $1.50, they can make on an average about 3-4 dozens an hour. In one good night they may make up to $40. But that is if they work most of the night. Though it is not much but with foodstamp and medicaid they can have some spending money. Sometimes when the children complain, she must constantly reassures them that one day they will make enough to stop working like this and move away.

"Situation like above I have seen often in my investigation. Most family do homework until they can save enough to move or confident enough to get off welfare. However, this kind of mentality persists and they continue to work at home for years. In the meanwhile, the children suffer and usually do not go on after highschool due to academic deficiency. It is a shame in these children's cases because being americans they deserve more for their future in the land of their father."

If the U.S. Department of Labor is serious about stopping child labor, there is much that it can do. However, if the Department proceeds with its proposal to lift the ban on industrial homework in women's apparel, it will make a mockery of all its professed concern about child labor. For the most vulnerable children in America, industrial homework in the apparel industry means a childhood spent in late nights of forced labor.

Fighting the sweatshop will take a concerted effort of all parties at both the Federal and State levels. The ILGWU has worked closely with the NYS Department of Labor's Apparel Industry Task Force in its efforts to identify sweatshops and to cite them for multiple violations of the law-- including building and fire code. Inspectors must be trained and must have the ability to speak the languages of these immigrant workers and employers.

Even with these efforts, the fight against sweatshops will be a largely futile task if we do not hold the manufacturers and retailers who do business with-- and profit from-- sweatshops responsible for the conditions under which their clothing is sewn. The ILGWU is supporting legislation in California which will establish such "joint liability" under the law.

In spite of the climate of fear, the ILGWU has found many immigrant workers who are willing to stand up and organize for better working conditions. Unfortunately, all too often, the employer tries to intimidate the workers with threats and firings of union activists, and, if that fails, simply closes up and moves away, thwarting the workers' rights under the National Labor Relations Act.

Justice for immigrant workers-- adults and chidlren-- in our new sweatshops will demand a concerted effort across this country, on the scale of the national campaign which emerged from the Triangle Fire disaster in 1911. But simple American justice demands nothing less.

Enclosures

Testimony of
CELIA BARRAGAN

Before the
U.S. Department of Labor Hearings on
Industrial Homework in the Women's Apparel Industry

Los Angeles, March 23, 1989

My name is Celia Barragan. I grew up with my family doing industrial homework in the women's apparel industry. My mother, my father, my sister, my brother and I all worked at home making garments. The ban on industrial homework should remain in force. Industrial homework in the women's clothing industry is a terrible thing, and no certificate system can change that fact.

My family moved here from Mexico in 1974, when I was seven. My sister Maria is two years older than I am, and my brother Javier is two years younger. My sister Lourdes is two years younger than Javier. The three older children helped my mother do homework from 1974-1982-3. Maria and I worked every day, while my brother helped out when there was a special rush.

My mother worked for several different companies in the Los Angeles area. She made blouses, dresses and skirts. She was always paid by the piece, not by the hour.

I do not know exactly how much my mother earned. In the mid-1970s she usually earned less than $100 a week. And I do know she worked very long and hard, and did not make much money. My mother would stay in front of the sewing machine all day long and often until late at night. She would get up only to eat or to cook. If my sister and I were home from school, then we cooked, so my mother could keep working. My mother worked half-days on the weekends. But she never received any additional money for working more than 40 hours in the week.

Maria and I would work two or three hours almost every day after school. At times we also worked three or four hours a day on weekends, sometimes on both Saturday and Sunday. My mother did the sewing. After we bought a second sewing machine, my father would sew also when he came home from work.

Maria and I turned the garments inside-out, so that the seams could be sewn on the inside. We made corners in belts and collars by stretching the material with something pointed like a pencil. We cut threads and put laces in dresses which had tie-up fronts. This work made my fingers red, swollen and sore.

The worst thing about homework was that my mother was always under pressure. When she had an easy job to sew, she did all right. But most of the time she had difficult jobs to sew. Or she had a rush deadline. When we had to meet a deadline, we would work until late. We had to go to bed by

8:30 when I was young. My parents enforced this rule strictly. But when we had to meet a deadline, sometimes we had to work until 11:30 at night. I believe that working this much and staying up late interfered with my school work and made me tired at school.

My mother would stay up even later. She would work until 12:00 or 1:00 am. Many times the noise of the sewing machine woke us up in the middle of the night. Then my mother would stop working, but she would get up very early in the morning and start again.

The difficult jobs caused my mother great strain. The boss would give her sample, but not explain how the job was done. My mother would have to try different ways to sew the job until she figured out a way that came out right. Of course, the boss did not pay her for this time.

Many times my mother would take work to the boss and expect to be paid. She counted on getting the money then to buy our food or pay bills. But the boss would tell her to change something on the garments, such as making the pleats narrower or wider. Then my mother would not get paid until she had finished redoing the work.

If my mother sewed anything incorrectly, she had to fix it before she was paid. This happened often because the boss did not explain exactly how he wanted the garment made.

Or my mother had to make the garment with the wrong needles, or the material would not work well in her machine. Of course, the boss couldn't care less about these problems. And he didn't pay my mother anything extra for her time. The piece rate was all my mother ever made.

The employers did not pay my mother for the time she spent carrying the work on her back to and from the factory. With one company she had to walk eight blocks carrying the large, heavy bags of garments.

My mother worked in the living room. The living room was always piled high with pieces of material, bags of garments and the sewing machines. It was always crowded and cramped. There were threads all over the floor. We could never escape the dust and lint. The living room was covered with it, and we always had it in our hair. We breathed the dust constantly, and had it in our noses and throats. We had coughs from the dust constantly and often got skin rashes from the material. The noise, the dust and dirt made our living room seem like a factory. I could never bring friends over to my house, and would have been ashamed for them to see my living room.

Homework made our lives miserable. My mother watched my younger brothers and sisters while she worked. So, they had to stay all day with her in the living room, in the middle of the dust, dirt and noise. They could not go outside or move around. My mother was always keeping one eye on the little ones, to keep them out of the material and garments. Then she would make a mistake because she could not concentrate, and yell at my little brother and sister for making too much noise or getting into the garments. Sometimes my mother would beat us because she was always frustrated and anxious from watching the kids while trying to make the deadline.

On and off from my 8th grade year to the 10th grade, I began to do my own homework in addition to helping my mother. I worked for the same company as my mother. I was given sewn garments, and I cleaned the garments by cutting the loose threads. I would also hang them up and bag them. I was paid two or three cents each to lace up dresses. When I picked up speed I could do 50 in an hour.

Nothing will improve the industrial homework system. It must remain banned, and the ban must be enforced. Homeworkers will not keep accurate records. My mother knew that there was a minimum wage, and that she made far less than the minimum. But she would never keep accurate records if that meant a risk of losing her job. She would cheat on her records of hours rather than anger her boss. She would not keep records that showed minimum wage, overtime or child labor violations.

I believe that children will always work as long as women's clothes are made at home. My family needed the money. My mother made us work so that we could make a few cents more a week. This will not change unless you have a government inspector stationed in every home that does homework.

Please keep and enforce the ban on homework in the women's apparel industry. Thank you.

Testimony of

Marie Anne, Homeworker

Before the
Department of Labor Hearings on
Industrial Homework in the Women's Apparel Industry

Miami, March 16, 1989

Please call me Marie Anne. I am using this name because I will not be able to get work if I use my real name. I am a homeworker. I want to tell you about my life and my work. I am Haitian. I came to the United States in 1980, and am a resident alien. I have been sewing at home for several years. I have worked for several different companies, making different items of children's and women's clothing.

I must work very long hours to pay for our food and housing. I start work at 6:00 in the morning. I work all day and into the night. I always work until 8:00 pm, and often I work until midnight. I do this seven days a week. I do not leave my machine very often. I must cook for an hour or so on school days. On weekends my children cook and I eat at my sewing machine. I never receive any extra money for working more than 40 hours in a week.

Working such long hours is very bad for my health. In the morning when I get up, I can't close my hands. They ache. I have bad back pains, and get cramps in my body.

My children work with me as well. I have six children living with me, four of them under 16 years old. They all work on the garments. The two youngest are five and ten years old. They work two-three hours a day, cutting threads, cutting elastic, folding and bagging and other jobs. On weekends, my 13 and 14 year old children work at the sewing machine for the day.

I am paid very, very little for my work. About four months ago I sewed a lot of two piece women's pants and tops. I did a total of 1,374 sets. I was given 15 days in which to complete the order. I had to work until midnight to complete the job in this amount of time.

Sewing each set took about fifty minutes. It required three different sewing machines, a Singer, a Merrow and a blind-stitch. We had to sort the pieces first. Then we sewed them, cut the threads, sewed in the labels, ironed and bagged. It took well over an hour to do each set. I was paid $1.20 for each set.

I must pay for the the electricity to run the sewing machines. When I have a lot of work to do, the electrical bill for the sewing is over $100 a month. I had to buy the thread for these two piece suits. I spent $91.50 on thread, and used additional thread I already had. I have to pay for my own needles, which cost $12 for this job. I also have to pay for the oil for the sewing machines. I had friends who picked up the work and delivered it for me. I paid for the gasoline they used.

I had to buy and pay for my sewing machines. I own seven machines, which my children and I use. They cost about $700 for the Singer; $1500 for the Merrow and $1,300 for a used blind-stitch. I have to pay for repairs on the machines. I have a friend who charges me $25 to fix them, plus the cost of the parts.

Sometimes I have friends help me sew garments. My friends do parts of the garments in their homes. I would pay them part of what I was paid. For instance, I paid my friends $0.30 for children's tops. I received $0.40 for these tops. I had to finish sewing the tops, cut the threads, inspect the tops and make repairs on them after I got them back from my friends.

In September I worked on three piece children's suits. I earned $1.75 for the entire suit, including a shirt, jacket and pants. The jackets were very difficult, and took me several hours to do one. The pants and shirts were much easier.

I sewed about 1000 pants and shirts, and over 100 jackets. But the company did not pay me. The company said it did not have any money. I met many other homeworkers who did not get paid themselves. I have received only $150, and the company has not paid me the other $800 it owes me. They owe me this money since the end of September. But I had to pay the people who helped me, as well as my other expenses. This money came out of my pocket. The employers do not make any deductions from my paychecks.

I know that homework pays very badly. But I need to make money for my family to survive. I cannot afford to pay for childcare. It is not right that my family and I get paid so little for so much hard work. Thank you.

Testimony of
MICHELLE SNYDER

Before the
U.S. Department of Labor Hearings on
Industrial Homework in the Women's Apparel Industry

New York City, March 29, 1989

My name is Michelle Snyder. I live at 401 W. Main Street, Terre Hill, Pennsylvania. I am here to tell you about my experience doing industrial homework in women's apparel.

I work at a garment factory, THM Manufacturing in Blue Ball, PA. I earn about $10 an hour on piece rate in the factory. I did homework for a week beginning on February 13, 1988 because I needed the extra money to support myself and my three children.

I did the homework after a full day's work in the factory. I started the homework around 3:00 pm and worked until 11 or 12 at night. This was very exhausting. The work is very dusty, and it gave me nose bleeds.

I sewed shoulder pads for women's shirts, waist bands for women's shirts, retained and joined the collars and tacked lace ribbons for children's shirts.

I was paid 20 cents a dozen for the ribbons. It took me about 10 minutes to do a dozen ribbons. I was paid 22 and a half cents a dozen for the waistbands, and it took me one hour to do 2 dozen. I got $5.00 for 180 shoulder pads; I was not paid at all for the three hours I spent retaining and joining collars.

I spent about 50 hours working at the sewing machine. I received a total of $64.28 for this work. The 50 hours does not include the time I spent setting up, finishing (tying and bagging), travelling to pick up and deliver the work every day, and waiting time.

In addition, my children, ages 8 and 9, helped me. They folded ribbons and cut garments apart. Each child worked about two hours.

Out of the money I earned, I had to pay for the electricity to run the sewing machine and the gas and wear and tear on my car, as well as heat.

I was not paid time and a half for the work I did over forty hours in the week. I was paid by check, but the employer did not make any deductions from my check. I was concerned about fire dangers, because I worked on the material in the kitchen.

A co-worker of mine in the factory, Christine Weinrich, gave me the homework. She said she was a subcontractor and had 10 girls sewing in their homes with her machines. I did some of the homework at Weinrich's home, where there were two industrial, factory sewing machines. I did the rest of the work at my home.

After a week, Weinrich told me that she didn't have any more work for me and that she was going to stop doing homework. This happened the same night that Weinrich found out that the union Shop Chairperson was a friend of mine. Weinrich made a very big deal about my being friends with the shop chairperson.

Although I needed extra money very badly since I am the sole support of my three children, I learned that homework was a very bad way to work and I hope that you will not allow industrial homework in this country.

Testimony of

JUANA PEREZ

Before the U.S. Department of Labor Hearings on
Industrial Homework in the Women's Apparel Industry
Chicago, March 9, 1989

MS. WERTHEIMER: I think the English translation is mildly different in minor ways from the Spanish. The translation is now in English, read in Spanish, but it has certain markings on it. We would just recommend cleaning it up.

JUDGE VITTONE: I personally have no preference. I'm just trying to make it easier on the three or four of you.

MS. WERTHEIMER: We're prepared to read the statements as they are right now in English.

JUDGE VITTONE: Okay. Why don't we do that. Ms. Sanchez will read them, and take each one at a time. Okay. And then we can have questions for each individual.

MS. SANCHEZ: Juana Perez is prepared to read her statement herself in English.

JUDGE VITTONE: In English? That will be fine then. Okay.

STATEMENT OF JUANA PEREZ

MS. PEREZ: My name is Juana Perez. In 1986 I testified before Congress about my experiences as a homeworker. A copy of my statement, which is true, is attached.

I am currently employed at a factory in Chicago which makes plastic products. I do not presently perform any homework, but I continued to perform homework for Blanca Moreno through May 1988, and my daughter, a 15 year old student, assisted me.

Blanca Moreno worked for the Glacier Brothers. I sewed pants, dresses, and blouses. I made the entire garment. I was paid 35 cents for a pair of pants, $1.25 fo ra dress, and 80 cents per blouse. I normally worked eight to ten hours a day, six or seven days a week. When I became tired or had other things I had to do, and my daughter was home from school, she would sew. Working that way I could produce 100 blouses per week, earning $80. I would do better on dresses or pants, averaging about $2.70 per hour. I received no overtime and kept no time records. I was paid by personal check.

In figuring my $2.70 hourly wage, I did not take into account the three hour round trip by public transportation to and from Blanca's to pick up and deliver the work, or the cost of the public transportation. I made the trip two or three times a week. Also, I had to supply my own needles for the machine, had to pay a repairman for any repairs on the machine, and had to pay my own electricity. These costs were paid out of the $2.70.

I bought my machine from Blanca for $300. She deducted $20 per week from the check she gave me. I was paid when I returned the garments. I was not paid for rejects or garments needing repair. The money to pay for the machine was the only deduction from my pay.

In addition to working in my home, I also worked at times in another lady's basement. The basement wasn't heated, and we worked with our jackets on. The piece rates were the same, but each day we had to unload piece goods from the station wagon, and load it with finished goods. We were not paid for that time.

I got started in homework because I needed the money. I prefer not to do it, and only do it out of necessity. Your apartment is always a mess from the piece goods stacked all over, and the air is filled with particles of material which irritates your nose and throat. It is hard to work late at night because the neighbors complain about the noise and vibration from the machine. I would work late when they were not home.

My landlady also would get upset because unless I was careful about whatever electricity I was using, the machine would blow fuses. We were always under pressure to produce more, and were told that if we did not produce we would not get any more work. I would have my daughter help me, but that bothered me because she was not able to spend time on her schoolwork, or after helping me was up later than she should have been to do her schoolwork, so she was tired and sleepy when she went to school.

My job at the factory is hard, and the pay is not great, but I am paid for all the hours I work, have contributions made for Social Security benefits, I am covered by workers' compensation insurance, and when I am finished I can leave my work, get away from it, and go home to an apartment that is not littered with dust from the material, and does not have bundles all over. I can spend time with my daughter, and her schoolwork or sleep is not interfered with.

JUDGE VITTONE: Thank you very much. Now you are reading for the lady to your immediate right, is that right?

MS. SANCHEZ: This is Juana Perez.

JUDGE VITTONE: Do we have any questions for this particular witness?

MS. GALLAGHER: Yes. Would you ask Senora Perez how old her daughter was when she started helping her?

MS. PEREZ: Ten years old.

MS. GALLAGHER: And would you ask her to tell us what jobs she did?

JUDGE VITTONE: You mean Ms. Perez or her daughter?

MS. PEREZ: She said my daughter would close the necks, the collar neck. She would close the collars, the ones that she's showing.

MS. GALLAGHER: I'd like the record to show that the witness is holding a blouse with a long tie similar to the tie that we were talking about earlier, except that mine is not attached whereas this one is attached.

MS. PEREZ: And she would also close the cuff.

JUDGE VITTONE: She would sew the collar and the tie, collar and the cuffs. Let the record show that she said yes.

Do you have any other questions?

MS. GALLAGHER: I don't recall whether Senora Perez testified whether her daughter is no longer engaged in this. I assume that her daughter is no longer engaged in the apparel work?

MS. PEREZ: No, because I found a job in a factory.

MS. GALLAGHER: Thank you very much.

JUDGE VITTONE: Do you have any?

MR. BLACKBURN: No other questions.

JUDGE VITTONE: Let me ask Ms. Perez a couple of questions. I understand that she said that she was paid 35 cents for a pair of pants, $1.25 for a blouse, or a dress, I'm sorry, and 80 cents for a blouse?

MS. PEREZ: She said I was paid 35 cents for a pair of pants, and $1.25 for like a housecoat dress. And she said this type of blouse she was paid at 80 cents.

JUDGE VITTONE: Eighty cents for that particular white blouse?

MS. PEREZ: Yes.

JUDGE VITTONE: How many did she say she would-- of those blouses she would sew in a week?

MS. PEREZ: If I made this type of blouse, I could sew 100.

JUDGE VITTONE: I'm sorry. I didn't hear you.

MS. PEREZ: If I made this type of blouse, I could sew 100.

JUDGE VITTONE: How many hours would it take for her to sew 100 blouses, if she can estimate?

MS. PEREZ: She said it would take about 45 minutes for one blouse.

JUDGE VITTONE: Forty-five minutes for one blouse. Is that actual sewing time, or what?

MS. PEREZ: Only sewing.

JUDGE VITTONE: Only sewing. What exactly would she do for that blouse? I mean, what --

MS. PEREZ: I would attach the collar. Also the shoulders, and sew on the cuffs. Assemble it completely.

JUDGE VITTONE: I'm sorry, say that again?

MS. PEREZ: Assemble it completely.

JUDGE VITTONE: Assemble it completely. All right. Thank you.

Do you have -- okay, I think we can move on to the

Testimony of

EDA FLOREZ

Before the U.S. Department of Labor Hearings on
Industrial Homework in the Women's Apparel Industry
Chicago, March 9, 1989

MS. FLOREZ: My name is Eda Florez. I am 15 years old, and a sophomore in high school. School is very important to me. I want to do well so I can go to college.

In the eighth grade and in my freshman year in high school I helped my mother with the work she was doing at home. I learned by watching her and will operate a sewing machine, and will sometimes will work with the scissors cutting and trimming. I will help my mother one or two hours during the week, and will work about three hours a day on the weekend. This was so my mother could rest, do things around the house, or go food shopping, and so forth. I was lucky. I did not have any accidents with the sewing machine or scissors, but the material fibers or dye particles in the air gave me sinus problems.

We had to get medication from the doctor. It gave me some relief from the pain. I was still uncomfortable. I did not miss any days from school, but I did fall behind in my schoolwork, and will get sleepy at school. I feel behind because I had about an hour of schoolwork and I had trouble doing it. It wa difficult to concentrate when my mother was using the machine, and with the material she was working with piled all over the house. There was really no place for me to do my schoolwork.

I also had difficulty because I would be tired if I helped my mother before doing my schoolwork. I got sleepy at school because of the nights when my mother was running the machine it was hard to sleep.

I have looked for jobs to try to earn money to help my mother, but at my age I cannot get a regular job. All I could do was help with the homework. Right now my mother is not doing homework. She has a regular job. I hope she can avoid having to do homework. It is much nicer around the house. Mom does not seem as tired, and it is easier to have friends visit.

JUDGE VITTONE: Thank you. Do you have any questions?

MR. BLACKBURN: No questions.

JUDGE VITTONE: Ms. Gallagher?

MS. GALLAGHER: Ms. Florez, did you say you are 15 years old?

MS. FLOREZ: Were you born in the United States?

MS. FLOREZ: No.

MS. GALLAGHER: So you are -- I have no further questions.

JUDGE VITTONE: I am not sure I understood. How long were you doing homework, or helping your mother to do homework?

MS. FLOREZ: For five years.

JUDGE VITTONE: And you started at what age?

MS. FLOREZ: Ten.

JUDGE VITTONE: You're 15 now?

MS. FLOREZ: Yes.

JUDGE VITTONE: So you just recently stopped doing homework?

MS. FLOREZ: Yes.

JUDGE VITTONE: What kind of work was your mother doing as far as sewing at home?

MS. FLOREZ: Blouses, pants, dresses.

JUDGE VITTONE: Do you know how long -- how many hours a week she would spend doing homework? Not exactly. Just an estimate.

MS. FLOREZ: Doing homework?

JUDGE VITTONE: Excuse me?

MS. FLOREZ: Well, I can't say. I was in school. But I could say it was like four or five hours or more.

JUDGE VITTONE: And you helped her everyday?

MS. FLOREZ: When I got back from school, yes.

JUDGE VITTONE: When you came home from school you helped her?

MS. FLOREZ: Yes.

JUDGE VITTONE: How long would you help her after school?

MS. FLOREZ: Two or three hours. It all depended on how much homework I had to do.

JUDGE VITTONE: Then you did your homework?

MS. FLOREZ: My schoolwork, yes.

JUDGE VITTONE: And then -- but you would help your mother each day after school?

MS. FLOREZ: Yes, before -- well, okay, I would come from school, and I will help her, and maybe later in the afternoon I would do my homework.

JUDGE VITTONE: Okay. What grade are you in now?

MS. FLOREZ: I'm a sophomore.

JUDGE VITTONE: A sophomore in high school?

MS. FLOREZ: Yes.

JUDGE VITTONE: Okay. Thank you very much.

Let me ask -- I have a question for the first lady. I'm not sure if I understood how long she had done homework, sewing work at home.

MS. PEREZ: Eight to ten hours to be able to get ahead with the work.

JUDGE VITTONE: Each day. How many years or months?

MS. PEREZ: For three years at home.

JUDGE VITTONE: Three years at home. Okay. So she is not working now doing homework at that rate?

YOUNG AND EXPENDABLE--TEENAGE WORKERS AT RISK

THE CONTINUING NEGLECT OF CHILD LABOR ABUSE IN THE U.S.

Testimony by
Joseph A. Kinney, Executive Director
and
Amy B. Gleason, Professional Staff Member
Workforce Preparedness Project*

before a hearing on May 8, 1990
of the
Subcommittee on Children,
Sen. Christopher Dodd, Chair

and the

Subcommittee on Labor
Sen. Howard Metzenbaum, Chair
Committee on Labor and Human Resources
United States Senate
Washington, DC 20510

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*A Special Project of:
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Thank you very much for inviting the Workforce Preparedness Project (WPP) of the National Safe Workplace Institute to provide testimony for your hearing on the problem of child labor and the exploitation of youth in the workplace. We applaud your leadership in holding this most important hearing so that the continuing problem of child labor abuse begins to gain the priority attention that it desperately deserves.

As you know, the Institute has been engaged in research on child labor and the role of work in the lives of teenagers for the past 19 months. We received a grant from the Aetna Foundation to spearhead our work in this area, which we recently expanded into the Workforce Preparedness Project. Most recently, our work has been supported by a grant from the Joyce Foundation in Chicago.

Our work has led us to conclude that child labor abuse in America is greatly underappreciated. In the Institute's Labor Day, 1990 report, we included a chapter entitled "Young and Expendable--Teenage Workers at Risk" that provided a special look at new patterns of child labor abuse, particularly in the fast growing service sector of the economy. Previous Institute reports documented the horrendous neglect that children suffer on the nation's two million farms and ranches, problems that extend far beyond the well known abuses of migrant children.

More Teenagers Work

The share of the teenage population that is employed has increased in recent years. There are two factors that drive the increased usage of teenage labor. First, the service sector, especially the fast food industry, has grown at a rapid rate during a period when the supply of available teenage workers has been shrinking. Second, many families have gone from being supported by one or two paychecks to being supported by multiple paychecks. This phenomena has been accelerated by the decline of high paying jobs in many parts of the U.S. economy. For example, 14 million blue collar workers and three million managers lost their jobs in the 1980's. While a small number of individuals went on to higher paying employment, most of these individuals have had to accept new employment opportunities with reduced pay and benefits. As a result, spouses and teenage children have taken jobs to make up the difference.

The Robbing of America's Youth

Our neglect of child labor abuse, particularly in the 1980's, has made the nation's teenagers young and expendable. Our research has led us to conclude that two crimes are being inflicted on the young. Not only are we robbing many youngsters of their youth, but we are robbing them of their future. Let us elaborate on the second factor. Our technology-driven society demands workers with technical skills if our businesses are to be internationally competitive. Increasingly, these new job requirements are based on solid math and science skills, the subjects that suffer most when teenagers work. U.S. business and higher education have paid a high price: they spend $30 billion each year on remedial instruction trying to bridge the learning gaps of our failed young.

While the broad picture is clear to us, more most be done to document this neglect and what it means for this nation. At the WPP, we are continuing to collect and analyze data on this matter. We believe that work can be beneficial for most teenagers. Yet we, as a society, have neglected to understand the need in balancing work responsibilities with educational responsibilities. Government, industry and the educational system share the blame for this failure. The WPP is dedicated to provide clear thinking and options on this situation so that future choices can be fully informed.

We divide abuse into three areas: (1) service sector, (2) traditional child labor or sweatshop and (3) farm child labor abuse. All three areas have been neglected by society and the institutions, public and private, that have been entrusted to ensure that the interests of young men and women are protected. It has often been said that our young people are the nation's most precious resource. For too many youngsters, this has been more of an illusion than reality.

For the remainder of this statement, we will address each of these three areas in terms of our observations and research. We will reserve most of our commentary for the first area, service industry abuse, which has been the focal point of our work. We plan to publish a national report in 1991 on the role of work in the lives of teenagers that will provide our views on this important matter. This report will review teenage labor use patterns in light of educational, demographic, and labor requirement patterns and trends. We will also host a Round-table involving national leaders in business, education, government and other fields on what can and should be done to correct child labor abuses and to more fully prepare teenagers for work.

Service Sector Abuse

The largest employer of teenagers in the U.S. today is the service sector of the economy. Unfortunately, for many youths, the demands of work in this industry have taken priority over the interests of school, family and community. Because of its large size, the service sector is the most neglected area of child labor abuse in the U.S.

The service sector contains a wide variety of businesses: food service (fast food outlets, restaurants and caterers), supermarkets, convenience stores, laundries and cleaners, gasoline stations, and small retail outlets. We have been most concerned with the food service industry, particularly fast food outlets. Our concern with this segment of the service sector stems from the large numbers of teenage workers employed and the long hours that these establishments are open.

In 1989, we conducted a survey of more than 150 outlets in Baltimore, Chicago, Los Angeles and Philadelphia.[1] Our survey consisted of questions that we asked of managers about labor use practices. We wanted to know specifically (1) what employment opportunities existed for young workers and (2) what monitoring programs, if any, that managers used to track the academic performance of young workers. Our general conclusions:

1) The level of abuse generally is closely related to the supply of labor. Labor shortages were most acute in suburban and middle class neighborhoods of the cities we surveyed. While the supply (availability of workers) of labor is an important

factor in abuse, the fact that outlets are operating far greater hours, both in the early morning and late in the evening, contributes to the demand for labor.

2) Fast food managers have little or no concern about child labor or Occupational Safety and Health Administration requirements. This lack of concern arises from the fact that these establishments are almost never inspected.

3) For many outlets, adult-like size and the ability to handle the job is the only requirement for employment.

4) Of the outlets we surveyed, only one manager had a system to monitor the educational performance of young workers. Managers routinely insist that they had no obligation to monitor such performance.

5) In the downtown or low income areas of the surveyed cities, we found that fast food outlets typically have a large supply of labor and therefore can reserve employment opportunities for teenagers 16 years of age and older. In fact, the starting pay for a 14-year-old in the suburbs is often $1.25 an hour more than for a 17-year-old in the inner city.

In conducting our survey, we began to understand that the nature of teenage work was changing in the fast food industry. We also began to understand that the nature of the work that teenagers experience in fast food jobs is now dramatically different than the nature of the work teenagers in similar jobs experienced just a decade ago. The fast food industry has long basked in the benign image projected by its television commercials, which feature alert, well-scrubbed teenagers happily working in clean, family-centered environments. In reality, the fast food industry has paid far greater attention to the "quality control" of its food products than to the welfare of its young workers.

After considerable examination of the nature of fast food work that is now available for teenagers, we concluded that there are four significant differences between work in this industry today and work opportunities that exist in other sectors of the economy (and those that prevailed for previous generations of teenage workers). These differences are:

1) Teenagers now are likely to work far later into the evening. We believe that late-night, fast food work contributes to diminished academic performance and increased absenteeism.

2) Work is typically supervised by other youngsters, sometimes by individuals who have been on-the-job only three or four weeks. Adult co-workers are a rarity. Obviously, there is little or no opportunity for mentoring--a vital source for value formation and attitude development for young workers.

3) The work that teenagers do is high stress due to the frenetic pace that typically characterizes many of these establishments.

4) The work is often needlessly dull and repetitious, utilizing few skills taught in school or required for other types of jobs.

We believe that this combination of factors is extremely important in understanding the problems associated with teenage employment in service sector work. The tendency for parents and others to encourage employment practices in this industry is often based on the personal experiences of adults who have no understanding of how work is so much different now than in previous generations. We hope that parents will become educated on these critical differences so they can assist their teenagers in making informed employment decisions

While the vast majority of child labor abuses in the service sector are related to hours violations, injuries and even deaths are part of the picture, too. Children, many under 16, have been cut by power slicers, burned by ovens and have lost limbs to paper baling machines. In addition, the use of teenagers as drivers of restaurant delivery vehicles has resulted in numerous deaths and serious injuries. The Institute was instrumental in telling the story of Jesse Colson, the 17-year-old youth who was killed by delivering pizzas last June in suburban Indianapolis. After pressure from the Institute, Jesse's employer, a business with $2.3 billion in annual sales, announced that it would no longer employ teenagers below the age of 18, the legal age for performing commercial deliveries. Previously, this enterprise was either ignorant of child labor law requirements or willfully broke the law.

The cause for our neglect is not difficult to understand. The fast food industry, which did not exist 25 years ago, has rapidly evolved to the point where it now employs a large and growing share of the teenage labor force. The growth of the fast food business has been so rapid that we have not had a chance to understand and digest the adverse consequences of work in this industry.

We are not alone in our assessment and concern. In an important 1986 study sponsored by the Spencer Foundation, Ellen Greenberger and Laurence Steinberg documented educational diminishment, increased absenteeism, anti-social behavior (including increased drug and alcohol use), and other dysfunctions among working high school students.[2]

Surveys have shown that about 70% of U.S. high school students work. High school seniors average 20 hours of work per week.[3] Educational researchers are in agreement that working more than 20 hours a week typically results in diminished school performance. In labor-short New Hampshire, a recent survey found that more than 84% of students in the 10th through 12th grade are working--and that 45% put in more than 20 hours per week.[4] We are concerned that the long, late hours students are spending at work is resulting in short, hurried minutes studying in school hallways between class, and in study halls that look more like slumber sessions.

Educators, researchers and even some employers are beginning to realize the potential for harm that exists in service sector work. Efforts to improve the work experience for teenagers must take into account the reality that service industries will continue to grow, and continue to employ large numbers of youth, for years to come. Any public or private strategy for the fast food industry must realize that many youngsters must work because of family poverty or to finance a college education. There are clear costs to thoughtlessly limiting access to work. Effective strategy must result in monitoring programs and cooperative strategies that protect the interests of young workers. Experimentation on how to best maximize the long-term interests of the young should be encouraged.

Secretary Dole's recent action to pursue litigation against Burger King Corporation should be applauded by all who care about our nation's young people and the success of our secondary education system. The fast food industry must see the Secretary's leadership as a challenge to examine existing teenage labor use practices. We are convinced that these problems can be successfully addressed through creative and effective leadership.

Recently, McDonald's Corporation started a program in Missouri to respond to community concerns about youngsters working far into the night. We applaud this initiative and we hope that it spreads as rapidly as possible. Tragically, however, neglect is the byword of this industry when it comes to evaluating the interest of its young workers. While it is easy for us to blame industry, society must shoulder much of the fault. We simply have not been thoughtful and creative in responding to this problem.

Sweat Shops and Traditional Abuse

Ever since the Institute was established in 1987, we have been acquainted with the horror of sweat shop and traditional child labor abuse. We discussed fatalities and injuries of teenagers on scores of occasions with parents, physicians and others.

Last year, we published *FACES--The Toll of Workplace Death on American Families*.[5] We told the incredible story of Bernie Kimmell, a 15-year-old who was killed while driving a forklift at a Seven-Up bottling plant in Elkton, Virginia. The tragedy of workplace deaths always makes additional victims out of families and friends. When a young worker is killed, the pain--and injury--is often greater. Bernie Kimmell should not have been operating that forklift, and even though his death was a clear violation of OSHA and child labor standards, almost nothing has been done about it.

The tragedy of child labor abuse has been documented by journalists, investigative bodies, academicians and others since the first child labor laws were enacted. According to Labor Department statistics, 22,500 children were found working illegally in 1989, the highest number since the enactment of the Fair Labor Standards Act in 1936. Recently, Bruce Butterfield wrote a five-part series in *The Boston Globe* that once again revealed our neglect of this issue.[6] This series, which ended on April 26th, detailed how industry, government, and other societal institutions have buried their heads in the sand rather than confront the abusive patterns that have emerged across our country--in sweatshops, on farms, and in local service establishments.

Every day ruthless operators subject the nation's children to the horror of sweat labor, particularly in the garment districts of New York and other cities. In addition, "homework" violations are on the rise, since the Reagan Administration de-regulated homework in jewelry assembly and some related garment industry tasks. Homework had been prohibited for decades due to its almost inevitable association with child labor. In tolerating this behavior, we are aiding and abetting the robbing of dreams of children who may never know the possibilities of being young in America.

The Institute has documented that children, including very young children, are being injured and killed, with regularity, in the course of employment. One can see the gravity of this problem by reviewing the data of state workers' compensation bureaus that track injuries and fatalities to workers below the age of 18. Regrettably, only a minority of the states disclose fatality and injury information for workers under the age of 18. It is evident that only a small fraction of job-related injuries to juveniles result in insurance claims, so it is likely that injuries are much higher than official statistics reveal.

In our work, we have interviewed Department of Labor field personnel who have responsibility for child labor compliance investigations. These highly motivated professionals freely acknowledge that they lack the resources--budget and personnel--to investigate even a small fraction of leads. Until recently, the Department's focus has been primarily on sweat shop exploitation. Department officials freely acknowledge severe human resource and budget limitations in addressing even these problems.

The number of violations found during the Labor Department's three-day. Operation Child Watch sweep in March--7,000 children found employed at illegal hours or in illegal occupations--belies the truth that the scope of child labor is far greater than official statistics reveal. Just last week, the General Accounting Office estimated that the Department of Labor has just 50 full-time (equivalent) child labor inspectors for the entire U.S. We believe that this number is far too small given what is known about this problem. Rather than confront this problem, our meager response will only guarantee that it continue.

Farm Abuse

There are two types of child labor abuse that can and should be associated with U.S. agriculture. First, there is the problem of migrant abuse. Nearly a million migrant farm children toil daily on our nation's commercial farms and orchards, deprived of an education as they work at a back-breaking job that exposes them to toxic pesticides and other occupational health risks. This more "traditional" child labor abuse has been roundly condemned. The second type of abuse concerns the 1.5 to 2 million children who labor on family farms and ranches. Many of these "family farm" practices simply have not been identified as abusive even though they clearly are.

Even though the tragic problems of child labor abuse on farms and ranches have been well known in the agriculture industry for at least two decades, we, as a society, continue to turn our eyes from these problems. We collectively think of the lifestyles of American agriculture in romantic and positive terms, ignoring the brutal reality that our farms are one of the most dangerous locations for young workers in America.

From an occupational health and safety perspective, the most serious child labor abuse in America occurs on the nation's farms and ranches. Farming is our nation's deadliest occupation--and the only industry where many children, prior to their teens, routinely, and legally, handle hazardous machinery. Studies by researchers at the Mayo Clinic, the University of Iowa and Purdue University reveal that hundreds of youngsters are maimed and killed with total impunity. These studies show that one out of every five people killed on the farm is a child under the age of 16. One in every six farm workers injured is a child.

We have given farm families a license to expose children to hazards that should have been outlawed years ago. Last year, the Institute documented the death of a three-year-old Texas youth killed while working with his family on a farm near Austin. There are dozens of youngsters, aged 4-11, crushed to death in tractor rollovers, mangled in power takeoffs, suffocated at the bottom of grain wagons, and killed in other ways on the nation's farms and ranches. Each year, 300 or more children under 16 are killed while working on the family farm, and another 23,500 are injured--according to estimates by medical researchers.[7] No government agency counts child labor accidents or deaths in agriculture.

We have allowed this problem to go on unabated because most of these young people were killed or injured while working for their family. We have come to have sympathy for the family farmer and rancher, without understanding that there is a wider public interest that should encourage us to scrutinize certain behavior, even on family-operated farms and ranches.

It is outrageous that no one investigates deaths, especially to young people, on farms and ranches. This failure rests with Congress. In recent years, the Congress has added an appropriations rider that bars the U.S. Occupational Safety and Health Administration from investigating farms and ranches, even when fatal accidents occur. The federal role in farm safety has been limited to greatly underfunded Extension Service programs which are limited to advisory functions. Recently, the National Institute for Occupational Safety and Health (NIOSH) began to examine ways that farm and ranch safety can be improved.

It is time for creative and effective leadership to reduce farm accidents. We would like to share two ideas in mapping out strategy for ensuring greater health and safety, especially for young people, on the nation's farms and ranches. These are:

(1) The creation of a joint Departments of Labor and Agriculture Task Force that would address the problem and possible solutions. We suggest that this ad hoc body be given a limited time-frame in which to identify possible solutions.

(2) Farm safety audits, conducted jointly by the Departments of Agriculture and Labor. Child labor use, involving family members or other youth, should be considered a hazard. Farmers and ranchers should be given a period of time to correct violations. If violations are not corrected, we think that the farmer or rancher should lose eligibility for federal programs or subsidies. For a farmer, this would mean that continued violations would result in lost crop or home loans,

disaster assistance, etc. For a rancher, this would mean that violations would result in reduced access to subsidized, federal grazing leases. Reduced access to federal programs would be a first step to more punitive measures.

The carnage that has taken place on America's farms and ranches will end only when leaders in the Congress insist upon responsible and effective change.

Conclusions

We should not delude ourselves into thinking that child labor problems can be easily fixed or that government, alone, has the exclusive role and responsibility for correcting abuses. Increased government enforcement should be welcomed and the higher penalties that have been recently proposed should help encourage compliance. We urge that this legislation before you today be enacted as soon as possible to provide the financial--and criminal--sanctions that will deter employers who consistently ignore child labor requirements. A strong enforcement strategy will be most effective when carefully blended with monitoring and educational programs that encourage local solutions developed by thoughtful leaders from within government, education, business and community groups.

While more effective penalties will help play a role in encouraging compliance, we should not delude ourselves into thinking that an emphasis on enforcement alone will cure this problem. Rather, each group with a role on this issue has steps they can and should take. Before we examine these measures, we would like once again to state that we believe that an appropriate type and amount of work experience is good for teenagers. We, as a society, must explore ways to ensure that work is a constructive factor in the lives of high school students. The following are some preliminary thoughts on the roles various individuals--parents, teachers, employers, regulators and legislators--could play to help achieve this goal.

- Parents: Teachers complain that parents do not instill in their children a deep belief in the value of education, and are often too busy working themselves to notice their teenager's falling grades and school attendance. Parents need to become aware of the potential problems surrounding their child's employment, and they need to discuss work with their teenagers--not only to detect problems, but also to help teenagers gain the perspective of an experienced worker, and thus make the work experience more educational.

• Teachers/Schools: Concerned teachers, guidance counselors and other high school staff have served as the vanguard on this issue, often filing complaints regarding employer violations and contacting parents whose children are experiencing academic difficulties as a result of work demands.

However, those teachers who have taken the initiative to become involved are few and far between. It is now time for both teachers and schools to expand their involvement in identifying circumstances when work is interfering with the lives of teenagers. Schools need to: (1) monitor the educational performance and attendance of all students who work during the school year, (2) develop intervention procedures with students and parents--and even employers and regulators, if the problem involves a child labor violation--in order to stop behavior which threatens the integrity of the educational process and (3) withhold work permits in cases where the interests of work and education cannot be balanced.

Ideally, schools should go beyond these "damage control" measures and institute "workforce preparedness" curricula which teach students about the rights and responsibilities of workers, including the child labor laws. We envision a curriculum which includes a career development discussion that stresses the role that education plays in preparing workers for the most desirable jobs. By linking preparation in school to future success in the work world, we believe schools can administer "preventative medicine" that will enable more teenagers to act in their best long-term interests.

• Employers: Employers ought to take greater responsibility for the effects that work, particularly a first job, can have on teenagers. Employers should post, and follow, child labor restrictions. The ignorance we witnessed by managers in fast food establishments of child labor requirements should not be tolerated.

Employers should also monitor the educational performance of their workers, asking for photocopies of report cards and rewarding those who perform well in both the classroom and the work station. Employers must make a special effort to train young, inexperienced workers properly, and to allow workers to take on greater responsibilities and to perform skilled tasks as their knowledge grows. The fast food industry, in particular, has much to gain from such strategies, due to an enormous staff turnover rate that makes labor shortages more acute and threatens worker safety.

- Regulators: The Labor Department, at the federal level, has started off on the right track by conducting an unannounced "sweep" of service sector establishments, which are rarely inspected unless formal complaints are filed. Federal OSHA and Employment Standards Administration field inspectors have also recently begun sharing information--a procedure that should lead to increased compliance with the Fair Labor Standards Act, which includes the federal regulations on child labor. However, Labor Department officials on both the state and federal levels need more resources in order to provide a real incentive for businesses to comply with the law. In most states, service sector violators are rarely caught, and even more rarely levied a substantial fine.

- Legislators: This hearing, we hope, will be one of many that will result in support for increased penalties, more resources to enhance enforcement compliance, and increased public awareness of the need for state and federal regulators to reduce the number of child labor violations.

Federal law ought to limit the time of day and number of hours that 16- and 17-year-old high school students can work during the school year. The states are a crazy quilt of various restrictions, which are often not well known by students or employers. Legislators, on the local, state and federal levels should give the schools the tools with which to stop excessive work. Schools should be allowed to refuse and revoke work permits if violations are detected, or if diminished educational performance becomes a factor. Individual states should enact laws to limit the hours 16-and 17-old students can work on school nights, pointing the way for the enactment of similar federal legislation.

This hearing represents a positive step down the path toward a more rational and enlightened child labor policy in the U.S. We commend your leadership in holding this hearing, and we look forward to working with you and others in the years ahead to provide meaningful work opportunities for U.S. teenagers.

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[2] Ellen Greenberger and Laurence Steinberg, When Teenagers Work: The Psychological and Social Costs of Adolescent Employment (New York: Basic Books, Inc., 1986)

[3] Bachman, Jerald G. et al., Correlates of Employment Among High School Seniors, Monitoring the Future, Occasional Paper Series (Ann Arbor: Institute for Social Research, The University of Michigan, 1986)

[4] New Hampshire Department of Employment Security, 1990 state-wide survey of 721 students

[5] Joseph A. Kinney, Faces--The Toll of Workplace Deaths on American Families (Chicago: National Safe Workplace Institute Press, 1989)

[6] Bruce Butterfield, "Children at Work," five-part series, *The Boston Globe* (April 22-26, 1990)

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CHILDREN WHO LABOR

The Tragedy of Child Workers Around the World

BY CHARLES D. GRAY AND ROBERT A. SENSER

SPEAKER AFTER speaker in the Pittsburgh hall rose to denounce the spread of child labor in the United States. One delegate, a New Yorker, described his visit to tenement house cigar factories where he found conditions that "sickened" him:

"I saw little children, six and seven and eight years of age, seated in the middle of a room on the floor, in all the dirt and dust, stripping tobacco. Little pale-faced children, with a look of care upon their faces, toiling with their tiny hands from dawn till dark, aye, and late into the night . . . . Often they would be overcome with weariness and want of sleep and fall over upon the tobacco heap.

"Shame upon such crimes! Shame upon us if we do not raise our voices against them!"

The man who cried shame was Samuel Gompers, later to become the first president of the American Federation of Labor. The meeting at which he spoke was the founding convention of the AFL's forerunner, the Federation of Organized Trades and Labor Unions of the United States and Canada, which convened in Pittsburgh in November 1881.

A reporter, summarizing that session, wrote in the *Pittsburgh Gazette*: "These stories, coming from men who knew what they were talking about . . . were pathetic enough to bring tears to most eyes."

That was long ago, but pathetic stories of child labor still abound in the world, especially in far-off places, stories that would bring tears to the eyes of most Americans if they heard them.

Some stories are tragic. In a hillside cemetery in northern Portugal, a small grey tombstone reads "Here Lies Francisco Jose Da Silva." The boy died at thirteen, crushed to death by a defective elevator in a local sock factory where he worked.

Other stories are of tragedies narrowly averted. In the booming city of Bangkok this past April, five workers, two of them women, were injured when the scaffold on which they were working collapsed. Two of the victims were boys, Banyat Pitapai and Krairung Machabandit, both fourteen. All five had been carrying cement up to the fourth floor of a building under construction. "Miraculously," said the *Bangkok Post*, they escaped serious injury. The government took no action against the construction firm, claiming that the workers had not filed a complaint. Hardly surprising, since as casual workers lacking any job security they risked being fired if they dared to complain.

Most stories are less dramatic but no less disturbing. In the Tangerang industrial area near Jakarta, Indonesia, children as young as twelve and thirteen are employed in glass, textile, mosquito coil, and other factories. In one factory visited recently by a foreign group and reported on by a Bangkok-based organization, the Child Workers in Asia Support Group, one hundred children (earning 70 cents a day) comprise more than half of the work force. The children reported that supervisors hid them in toilets and large container boxes during visits by government labor inspectors.

In India, boys as young as ten work in dangerous occupations in glass and metal factories at wages of less than $1 a day. Employers provide no protective glasses, shoes, or gloves—no safety gear at all, not even for pouring red-hot molten metal. A report on conditions in India by the Child Workers in Asia Support Group states:

"Child workers in industrial situations are particularly vulnerable because of their unquestioning obedience to employers who place them in such hazardous circumstances [e.g., exposure to toxic substances] . . . . They are vulnerable also because of the class/caste situation. Employers do not care if the children live or die; so preventive measures are not taken."

Nobody knows the number of boys and girls under sixteen who hold down jobs across the world. No international agency has counted them because governments themselves seldom bother to count them. There are only estimates, and these vary widely and wildly: The most commonly cited range from 80 million to 200 million. Even 200 million may understate the reality. In China alone, according to an estimate made by the United Nations' International Labor Organization (ILO) a few years ago, there were 40 million working children from ten to fourteen. Child labor exists throughout the underdeveloped world — in Asia, Africa, and Latin America. The examples in this article are drawn mostly from Asia because our organization is most familiar with this region.

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MOST CHILD laborers engage in what economists call the "informal" sector . . . in activities such as hawking cigarettes at street corners, shining shoes outside hotels, selling vegetables from a road stand, repairing bicycles in an empty lot, harvesting crops on farms. This informal work often goes unreported. Also unreported is much of the child labor used by a growing number of small enterprises that have avoided the formality of registering for a license in order to escape taxes, regulation, tabulation, and compliance with child labor laws.

The problems of street children peddling pineapples and chewing gum are there for the public to see. Not so the situation of children working in registered or unregistered firms behind closed doors, which are almost never open to the public. With time and perseverance, however, it is possible to open some doors to get the facts. An enterprising reporter-photographer team from the Cox newspapers in 1987 traveled 65,000 miles and with difficulty managed to get into workshops of all sizes. Only twenty-four miles from the Taj Mahal, for example, they found boys under fourteen (some looking as young as eight) working in five of the country's largest glass factories. Their conclusion after visits to North Africa, Asia, and South America: "Children working sixteen hours a day, seven days a week in deplorable working conditions for pennies—that's the harsh reality of life in the Third World."

And according to information from the ILO, child welfare organizations, and various international unions, that reality is becoming harsher. As Third World countries struggle to develop their economies, they encounter pressure to lower—or ignore—labor standards that would diminish the comparative advantage (based on low labor costs) of their products on the world market. Also, the explosion of business creates jobs that, at no matter what the wage, magnetically attract impoverished youngsters.

EVENTS IN THE People's Republic of China illustrate the point that child development and economic development do not necessarily go hand in hand. That country's steps toward liberalizing its economy have produced an explosion of multinational business activity in export-oriented firms, often operating out of Hong Kong. This development, hailed as a sign of progress (and certainly producing some progress) has had a retrogressive effect on children. The new freedom to foreign investors has granted them, or their intermediaries, the right to exploit the labor of children. According to a Chinese newspaper, 30 percent of school-age children, mostly girls, became dropouts to take jobs in Guandong province. Some Chinese factories work ten-year-old girls fourteen hours a day; others employ twelve year olds for fifteen-hour days for $10 a month, plus lodging (the girls sleep two and three to a bed in cramped quarters).

Although the English-language press seldom uncovers details of this kind of exploitation, *Business Week* in October 1988 reported on conditions in China's special economic zones located near Hong Kong. These zones, set up to attract foreign investors through tax advantages and other privileges, "have spawned twin horrors associated with old capitalism—child labor and illegal working hours," the *Business Week* article said. It cited the situation of Hung Biu Yun, a Chinese toy worker who claimed she was seventeen (the minimum legal working age) but looked closer to twelve:

"Hong Biu Yun is clearly exhausted as she sticks Mickey Mouse heads onto motorized toys at a factory in Shekou, China. One of twelve thousand mainland Chinese employed by Hong Kong's largest toymaker, Kader Enterprises Ltd., Hong works fourteen hours a day, seven days a week, to rush toys to American kids."

The pressure on Hong Biu Yun, the magazine reported, became more intense when rush orders arrived from the United States for the Christmas season: "Recently her hours grew even more oppressive. To meet the holiday demand for Ghostbusters, Big Hauler trains, and Mickey Mouse dolls, the girls at the Kader plant were ordered to put in one or two twenty-four-hour shifts each month, with only two meal breaks per shift."

Troubled by such abuses, Chinese government officials have pressured Kader to respect the law, but, in the words of a Kader executive in Hong Kong, Andy Lee, "We told them, this is the toy biz. If you don't allow us to do things our way, we'll close down our Chinese factories and move to Thailand."

THAILAND MAY not be the country with the worst child labor problem in the world, but of late it has seemed that way, partly because the country has a free press, is open to outsiders, and has private groups actively doing something about the problem. Publicity and international pressure caused the government to briefly consider a number of reforms that are still far from being implemented. One was to raise the minimum age for workers from twelve to thirteen.

If that reform had been adopted, and if it was enforced, it still would not affect many thousands of boys and girls like Baulee*, thirteen years old, employed in a small garment factory in Bangkok for $27 a month. She works from 9 in the morning till at least 9 in the evening, six days a week, sometimes on Sunday. About twenty-eight children and adults work, sleep, and eat three meals a day in the four stories of her employer's factory, which subcontracts jobs for an export firm.†

Cases like Baulee's are not exceptional. A Thai government agency, the National Youth Bureau, found boys and girls of thirteen and fourteen working in a wide range of manufacturing industries: food processing, textile, furniture, printing, chemical products, machinery, and metalware, among others. The bureau's study provided detailed case histories of child workers, such as Rungjaroen Pradabenee, thirteen, who planes and cuts wood by machine in a furniture factory. Six days a week Rungjaroen, like the forty-five other workers there, faces health and safety hazards in the dark, dusty, and poorly ventilated factory.

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*Details about Baulee (not her real name) were obtained by the Asian-American Free Labor Institute as part of a project designed to better understand the causes of child labor.

†Most multinational corporations prohibit their firms from hiring children under sixteen. But for parts and services, these same firms turn to contractors and subcontractors who are not bound by this same prohibition. After the Cox newspapers exposed the scandal of child labor in a group of Indian glass factories patronized by Corning Glass, Corning stopped purchasing from those suppliers. A Corning official said he was "surprised" by the Cox revelations, emphasizing that Corning was only "indirectly involved" with the offending suppliers. (This "indirect involvement," of course, was making products for Corning.)

WHAT MAY be a tempting solution for individual families, however, actually prolongs poverty in a developing country's economy. Samuel Gompers addressed the poverty dilemma of his time in a speech to an audience in Denver in 1888:

"I have seen tender children in the factories tending dangerous machinery, parts of which seemed to be constantly reaching out for their delicate limbs. This may seem necessary. But in this age of steam and electricity, and of rush after wealth, there should be a halt called somewhere. . . .

"Some of you may be tempted to send your children out to work. A little fellow will bring home a dollar at the end of the week. That may seem a very grateful addition to the income. But don't you know that the child is employed because its labor can be had cheaper than that of a man? He becomes a competitor of his father. And if the father is not discharged, some other child's father often is. In this competition, the rates of labor are often so reduced that the combined wages of the father and child are less than the father's wages alone before . . . . It is bad [even] from an economic point of view to send young children out to work."

A similar viewpoint was expressed recently by Francis Tan, labor analyst of the Center for the Progress of Peoples, a Hong Kong-based research organization. "In most Asian countries," Tan pointed out, "cheap child workers take jobs away from adults, and since they do not have the chance to develop their talents in school, they will have little, besides their unskilled labor, to contribute to the economy when they become adults."

The child labor problem is so pervasive, and becoming more so in some of the industrializing economies of Asia, that even some child welfare advocates are content to rely solely on palliative measures: improving the working conditions of children (such as by providing safety goggles), shortening their hours, and providing them with on-the-job skills training. Such measures may be all that is possible in the most impoverished nations, but the world should never lose sight of the essential goal of eliminating child labor entirely.

Fortunately, despite the enormity of the problem, there is cause for hope. In almost every afflicted country, there are men and women, both within the government and in the private sector, who see the evil of child labor and who, often at great sacrifice, are working to eliminate it. One of them is a former teacher, Panudda Boonpala, who heads the Child Workers in Asia Support Group. "We are lucky," she writes, "to be working with many persons across Asia who think positively."

Advocates of improved educational systems often lead the way to reform. "The single most important instrument for ensuring that children do not work," says ILO expert Assefa Bequele, "is to have them attending schools. That means at least three things:

- gradually increasing the age of compulsory school attendance and enforcing it;
- increasing resources allocated to education, including school lunch programs and elimination of school fees and other student costs that, while small for the well to do, are a burden for families barely able to eke out a living; and
- finding other ways to make sure that school enrollment for children of the poorest of families is not an impossible liability, for example, by making up on a transitional basis for at least a part of the modest but necessary income a family loses when a child quits his or her job.

Such ideas grow out of practical experience. In 1978, Kenya became the first country in Africa to provide free milk in school, and as a result, primary enrollment tripled by 1983. In South Korea, where a decade ago the work force consisted of many twelve and thirteen year olds, child labor has almost disappeared, thanks partly to a drive for universal education that now sees 90 percent of Koreans enrolled in school until they are sixteen.

WHY DON'T more governments in the developing world do more for the education of children and their protection against exploitation? The barriers are many. For one thing, the process of development involves conflicting priorities. There is, for example, an impulse to show quick and visible results by heavy investment in steel and concrete. As a result, governments in the developing world have been inclined to invest in unproductive, heavy industrial projects, unnecessary military expenditures, and other non-economically sound endeavors at the expense of human development. When the budget does include more money for education, a disproportionate share often goes to very expensive higher education, to the benefit of an already-favored elite.[*] Another barrier is the acceptance of traditional economic advice against the improvement of labor standards on the grounds that such "rigidities" will hinder economic growth. Also, fielding, training, and paying for inspectors to monitor compliance with labor standards is expensive and can often strain the weak governmental infrastructure that exists in many underdeveloped countries.

Outside criticism of retrogressive policies and practices provokes negative reactions from leaders of developing nations. Typically, they respond by objecting to "meddling into internal affairs"—what they do within their own borders is their own business. Of course, the direct responsibility for changing priorities lies within each country itself. But in this modern age, to paraphrase John Donne, no country is an island. More than ever before, because of the growth of international trade, the low labor standards of one country can depress those of competitor countries. As the Chinese official who asked Kader Toys to obey the law discovered, the labor policies of Thailand very much affect the well-being of workers and nations elsewhere.

In the realization that countries can best make social progress together, the ILO in 1973 adopted a convention (number 138) that established a set of minimum ages for employment:

- fifteen as a general rule;
- fourteen for countries "whose economy and educational facilities are insufficiently developed"; and

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[*] World Bank statistics, based on UNESCO data, show that in some Third World nations the cost of providing a student with one year of university education can be up to one hundred times that of providing a year of primary education. In contrast, in the developed world, the ratio is closer to two to one.

● eighteen for any employment "likely to jeopardize the health, safety, or morals of young persons," with a loophole allowing a country to reduce that minimum to sixteen.

That convention, akin to a treaty, sets standards by which nations are supposed to regulate their labor affairs. So far, most nations have not ratified that convention, and even among the thirty-seven that have, some are not enforcing it. "There is a wide gap between law and practice," the ILO's Assefa Bequele points out.

Although U.S. law (and generally, though not always, practice) conforms to the requirements of the child labor convention, the United States itself has not ratified it (or most other ILO conventions), largely because of the opposition of employer groups who raise the specter that ratification could be a backdoor way to alter U.S. labor standards outside the normal federal and state legislative process. The failure of the U.S. to ratify the ILO convention weakens our moral position when we try to persuade other countries to improve their child labor conditions.

THE ILO itself has no power to enforce its conventions. It is up to individual countries to put teeth into the standards. Of late, Congress has taken a set of ILO standards (without crediting the ILO) and inserted them into four foreign trade and investment laws. The U.S. government now can make a country's privilege of exporting into the United States contingent on observance of five "internationally recognized worker rights," including a minimum age for the employment of children. The most important such law so far has been the U.S. Trade and Tariff Act of 1984, which, in extending authorization for duty-free import privileges under the so-called Generalized System of Preferences (GSP), linked those privileges to recognizing worker rights, or at least "taking steps" in that direction.

The U.S. government has not taken advantage of this new lever against the exploitation of children abroad. In June 1987, the AFL-CIO filed the first of a series of petitions with the U.S. Trade Representative urging the withdrawal of GSP privileges from Thailand because of violations of worker rights, "most flagrantly the prohibition against child labor, which for many boys and girls in their early teens amounts to involuntary servitude." While U.S. officials were investigating those petitions, the Thai government responded by expressing renewed interest in its child labor problems, and even by discussing a number of reforms, including raising the minimum working age from twelve to thirteen, but so far, two years after the first petition was filed, nothing concrete has happened. The Thai governmental concern tapered off after the Reagan administration, impressed with Thai promises, decided in April 1988 to continue Thailand's GSP benefits.

Later, however, the U.S. did reduce some of Thailand's GSP benefits for another reason, one affecting U.S. business: Thailand's failure to halt piracy of U.S. copyrighted software and other violations of "intellectual property rights." In the belief that child protection doesn't deserve a back seat, Rep. Donald Pease (D-Ohio) is preparing legislation to impose civil and criminal penalties against those who import into the United States products fabricated, assembled, processed, mined, or quarried by children under fifteen.

Another potential lever for reform is UNICEF. Although it is the lead U.N. agency for children's rights, UNICEF does not take the lead in the battle against child labor. Far from it. One reason, says UNICEF Executive Director James P. Grant, is a lack of resources. But, as Tom Kahn, the AFL-CIO's Director of International Affairs, wrote recently to Mr. Grant, "How much does it cost to express the moral principle that eight-or nine-year-old children should not be abused by ten hours a day of factory labor? The issue here is not so much money as commitment."

That commitment is lacking because of a desire not to offend U.N. member governments in the Third World. But the U.S. government, with our tax dollars, provides the largest single source of money for UNICEF. An AFL-CIO executive council resolution in February formally urged the U.S. government to prod UNICEF to launch a campaign against child labor.

November 1989 marks the thirtieth anniversary of the adoption of the United Nations' Declaration of the Rights of the Child, which states: "The child shall be protected against all forms of neglect, cruelty, and exploitation. He shall not be the subject of traffic, in any form. The child shall not be admitted to employment before an appropriate minimum age; he shall in no case be caused or permitted to engage in any occupation or employment that would prejudice his health or education. . . ."

The lethargy on this issue internationally is illustrated by the fact that governments are still negotiating the text of a new convention on the Rights of the Child, first proposed in the late 1970s. It might be ready for consideration by the U.N. General Assembly by the end of 1989—hopefully in time to commemorate the tenth anniversary of the International Year of the Child. The convention's main weaknesses are that it sets no minimum working age for children and contains no ban on trade of products made by child labor.

Commemorations are fine, but they don't go far. Meanwhile, in the words of an ILO report, "Child labor continues to be a tragedy of our time." New, practical initiatives are needed. It is time for the international business community to assist in some way, perhaps by adapting and adopting something like the Sullivan Principles, which pledged foreign business firms in South Africa to the practice of nondiscrimination. Companies active in international commerce ought no longer use the excuse that they are not responsible for the child labor practices of a contractor or subcontractor.

Aroused public opinion in the United States can also play an important role. As economists like to point out, American consumers are the prime beneficiaries of the new integration of the world marketplace. Its products fill up our closets, our garages, our kitchens, and every other part of our homes. But a global economy must produce more than goods for some. It must also produce a better life, especially for children in countries producing the goods we enjoy. That will not happen until the global economy is shaped by global concern about exploitation of children in the labor force.

We need more American voices to echo Samuel Gompers': "Shame on such crimes! Shame upon us if we do not demand action against them!" □

CHILD LABOR IN THE U.S.: ITS GROWTH AND ABOLITION

BY TODD POSTOL

CHILD LABOR—the employment of children under sixteen outside of the home—and the fight to control it have had a long history in America.

During the Colonial period, children were frequently hired out on a temporary basis to local farms and households. Since working children performed many of the same tasks for their neighbors as at home, the distinction between paid labor and family-based work was not sharp. In addition to this informal labor, a much more highly structured set of work arrangements existed in the ancient English institution of apprenticeship. Boys customarily began an apprenticeship between the ages of ten and fourteen. The apprentice-master relationship was rooted in a web of mutual responsibilities: Children learned a skilled trade by loyally following their master's orders; masters acted *in loco parentis*, providing vocational training and teaching their apprentices the rudiments of reading and writing.

The emergence of a factory system in the United States in the early nineteenth century changed all of this. By the 1830s, apprenticeship was systematically being replaced by wage labor in Pennsylvania, New York, and the New England states. This new form of industrial child labor differed from the older family-based model in several significant respects. Unlike family-based work, which was task oriented, industrial labor was time oriented. Child workers ate, rested, and worked by the bell. At home or in a master's workshop, children always knew the people who supervised them. This easy familiarity disintegrated with the spread of industrial child labor. The two worlds of work and home became clearly separate. Finally, the obligations of employers decreased to the point where the only responsibility they were assumed to have was to pay their workers.

In 1870, when the federal Census recorded the number of working children for the first time, more than a quarter of a million children aged ten to fifteen were listed in nonagricultural occupations. By 1900, these figures peaked at nearly seven hundred thousand. Since the Census excluded children under ten and usually missed juvenile workers in industrial homework, domestic service, and the street trades, these tabulations only hint at the true extent of child labor during these years. Charles Loring Brace, head of New York's Children's Aid Society, estimated in the early 1880s that there were at least 100 000 child workers in that city alone.

One way to prevent children from working was to keep them in school. As child labor reformer Florence Kelley declared in 1903: "The best child-labor law is a compulsory education law covering forty weeks of the year and requiring the consecutive attendance of all the children to the age of fourteen years." Between 1890 and 1918, every state in the U.S. passed some form of legislation mandating compulsory education. These Progressive-era acts often proved ineffectual as they lacked provisions for adequate enforcement. The result was that thousands of underage youngsters left school to enter the job market.

IN 1916 the first national child labor law, the Keating-Owen Act, was signed by President Wilson. This act prohibited the interstate commerce of goods produced by children under fourteen and established an eight-hour day for working youngsters under sixteen. Just nine months after it was put into place, the Supreme Court ruled that Keating-Owen exceeded the federal government's power to regulate interstate trade, and the act was found unconstitutional.

A second federal child labor law was enacted the following year, with the support of a potent reform group, the National Child Labor Committee. It imposed a 10 percent tax on the net profits of manufacturers who employed children below the age of fourteen. In 1922, the Supreme Court struck down this act as an infringement on the rights of individual states to impose taxation measures. Having suffered two serious defeats, reformers became convinced that the only way to control child labor was through the passage of a constitutional amendment. Throughout the 1920s, the NCLC unsuccessfully sought to gain approval of the required number of state legislatures.

Advocates of child labor reform were encouraged when, in the early 1930s, the National Recovery Administration banned child labor below the age of sixteen in most industries. In an all-too-familiar scenario, however, the NRA was invalidated by the Supreme Court in 1935. Ironically, opponents of child labor were now on the verge of their biggest victory. Three years after the NRA was overturned, the Fair Labor Standards Act incorporated many of the same limitations on interstate commerce as the old Keating-Owen act. It raised the full-time working age to sixteen and strictly limited the conditions of labor for fourteen and fifteen year olds. Unlike previous efforts, the FLSA was not invalidated.

A key reason the FLSA was effective was that child labor was already in decline by the time the bill was passed. By 1940, automation and structural shifts within the maturing American industrial economy had made child labor increasingly unprofitable. Changes in family size and demographics and restrictive immigration policies also contributed to the declining use of juvenile employment. But there were loopholes in the FLSA. Large numbers of children in migrant agriculture remained beyond the protection of the law well into the 1950s.

While it is reassuring to think that child labor is a thing of the past in the United States, it is important to recognize that violations of the laws do occur. There has been a general relaxation over the past decade of state regulations governing the number of hours children under sixteen can work. Not surprisingly, this has led to abuses of child labor statutes. A 1986 Massachusetts survey, for example, found underage juveniles illegally operating heavy earthmoving equipment, running power drill presses, and closing restaurants at 2 A.M. And earlier this year a certain fast-food chain, known for its sesame seed buns and its patronage of children's charities, was cited by Pennsylvania authorities for 466 alleged violations of state child labor laws. ☐

Todd Postol is a Ph.D. candidate in U.S. history at the University of Chicago. He is currently writing a history of the American newspaperboy trade for the period 1890-1950. His articles on American labor and social history have appeared in Labor's Heritage *and the* Journal of American Culture

AFOP ASSOCIATION OF FARMWORKER OPPORTUNITY PROGRAMS
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South Carolina
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June 8, 1990

The Honorable Edward M. Kennedy
315 Russell Senate Office Building
Washington, D.C. 20510-3502

Dear Senator Kennedy:

Attached is the Association of Farmworker Opportunity Program's testimony regarding S. 2548, which covers child labor standards. We are hoping that this testimony can be included in the official record of the hearing held May 8, 1990.

We feel that it is very important that the needs of farmworker children be represented in the Senate child labor bill. This year marks the 30th anniversary of the Edward R. Murrow *Harvest of Shame* documentary, and farmworker families, especially their children, are still not offered the basic labor standard protections offered to workers in other industries.

We would welcome the opportunity to meet with you and your staff to address any questions you may have about the farmworker population. Please feel free to contact me if you have any further questions.

Sincerely,

Lynda D. Mull

Lynda D. Mull
Executive Director
Association of Farmworker Opportunity Programs

LDM/bw
enclosure

cc: Stuart Mitchell, AFOP President

The National Federation of Farmworker Training, Employment and Service Organizations
An Equal Opportunity Employer

ASSOCIATION OF FARMWORKER OPPORTUNITY PROGRAMS' TESTIMONY ON S. 2548, THE CHILD LABOR ACT OF 1990

The Association of Farmworker Opportunity Programs (AFOP) is honored to have this opportunity to submit testimony for the official record regarding the child labor problems in agriculture. The Association's comments are directed toward those children who are hired in agriculture as employees and does not relate to children of farm owners or operators.

AFOP represents both the hired workers in agriculture, those who are out picking and harvesting in the fields, and the organizations and agencies who provide services to this segment of the farmworker population. In this capacity, we believe that more protective child labor standard laws should be enacted, and, more specifically, that the current child labor waiver provisions, which provides five exemptions that allow agricultural industry to hire children under the age of 12 to work in the field, should be eliminated. While S. 2548 is a good beginning, the Association feels that there needs to be provisions made to offer equal protection for farmworker children as other children outside of agriculture receive.

Some current facts surrounding child labor in agriculture are:

- five special exemptions to child labor laws allow children under the age of 12 to work in the fields, with some children as young as 10 being legally hired to work in agriculture;[1]
- 16 states have no labor standards specifically protecting farmworker children;[1]
- children can legally be hired as an employee in agriculture as young as age 10;[1]
- it is commonly known that children under the age of 10 are working in the fields during school hours, and are working 12 hour days exposed to pesticides with no access to field sanitation;[2]
- no waiver has been granted to any agricultural business to hire children under the age of 12 since 1986 and only one business has received this waiver since 1981;[3] and

- Eighty-six percent of migrant children will not complete high school, a rate which is nearly three times higher than the national average for other children in America.[4]

Since farmworker children can be hired as employees in agriculture at the age of 10, those labor protection standards which apply, or more accurately does not apply to adult farmworkers also applies to farmworker children. This means the following for farmworker children:

- in 15 states there are no job safety standards applicable to agriculture;[1]
- over half of state minimum wage laws do not apply at all to agricultural employment;[1]
- only four states provide full unemployment insurance coverage for farmworkers;[1]
- only 14 states provide full worker's compensation coverage for farmworkers;[1]
- over 44 percent of U.S. farmworker households have at least one disabled member;[1] and
- the rate of job-related deaths in agriculture for 1985 was 49 per 100,000 workers - in contrast, the rate was 11 deaths per 100,000 in six other major occupational categories.[3]

Many farmworkers come from families who have been agricultural workers for generations and have had limited exposure to any other types of occupations. Families, including the children, work together in the fields, many times missing school. Entire families must work, because the pay scale for the adult farmworkers' sporadic, seasonal employment during the year results in annual incomes well below poverty, making farmworkers among the nation's poorest employees.

Farmworker children often work illegally in the fields helping to increase the productivity of the adult workers by picking crops, carrying heavy bushel baskets to and from the loading trucks, etc. Generally, where workers are being paid by the piece rate system, that is where children will be found working illegally. These children work out of necessity in order to help supplement the family's already-limited income. It is a basic matter of survival for the farmworker family.

Records of the children working are not easily found, as often because they work under the parent or guardian's social security number. A typical work day begins prior to sunrise and can end after sunset. Harvesting of crops must be done when the crops are ready; no delay for school hours can be afforded. In some areas of the country, schools close for several weeks in order to facilitate children working in the fields to harvest the commodity.

The Fair Labor Standards Act of 1938 specifically addressed the issue of working hours for farmworker children. According to the act, no one under the age of 16 may be employed in agriculture during school hours for the school district where the minor is living at the time.

Outside school hours, no one under the age of 14 may be employed in agriculture, except under the following conditions: for children aged 12-13, they may be employed only with the written consent of their parent or legal guardian, or if the job is on the same farm where the parent or guardian is also employed; for children under the age of 12, they can work only if they obtain the written permission of their parent or legal guardian and only on farms where none of the employees are legally entitled to the federal minimum wage. As an exception to this rule, children as young as 10 may be employed by a farm operator who is subject to the minimum wage if the operator has obtained a special child labor waiver from the Department of Labor.

But these provision are rarely followed by both employer and farmworker family parent or guardian. Since 1981, only one employer has requested and received approval from the Department of Labor for a waiver in order to hire children under the age of 12.

It is commonly known, and has been shown through investigative reporting, such as the recent *NBC Nightly News* and *Boston Globe* series highlighting child labor in agriculture, that children are regularly and actively working in the fields of agriculture.

Children who work in the fields often work during school hours, thus being deprived of their right to an education. Because of this disruption in their education, they are deprived of this basic right and thus they remain in farmwork, enduring the same substandard working conditions as their parents and grandparents. Scarce tax dollars are then required to help them obtain an education or alternative job skill at a later age and at a much higher cost. Resources are also required to provide GED, Basic Skills, and English-As-A-Second-language (ESL) classes, health benefits, and job training for adult farmworkers who were denied an education as children.

Farmworker children are also exposed to toxic pesticides which can adversely affect their health. Both the Occupational Health and Safety Administration (OSHA) and the Environmental Protection Agency (EPA) regulations require agricultural employers to allow a 24 to 72 hour reentry period after pesticide spraying before farmworkers can go into a field to harvest crops. Chemical companies that make the pesticides decide how long the reentry period should be, and this is based on tolerance levels for adult farmworkers. As is evidenced by a recent incident in Florida, agricultural employers sent over 100 farmworkers into the fields without waiting the proper reentry period. This resulted in all workers becoming ill, some were hospitalized and two of the five women who were pregnant miscarried. It was very fortunate that these workers were adults, otherwise a child may have died from the exposure.

Reentry periods which are recommended by agricultural chemical companies are based on adult exposure tolerance levels. These levels are supposed to be 10 times that which is considered safe.

However, the safe level of exposure for a child, when compared to an adult, is considerably lower, and thus the level of safety is more realistically reduced to a minimum level.

Based on a report released in February 1989 by Natural Resources Defense Council entitled *Intolerable Risks: Pesticides In Our Children's Food*, "in addition to receiving greater exposure to many pesticides than adults, young children may be more susceptible to the toxic effects of these pesticides as a resutl of their immature physiological development...Numerous studies have found that the young are more vulnerable to the toxic effects of many chemicals...exposure to a numner of carcinogens and neurotoxins, including neurotoxic pesticides, has been shown to cause greater harm to the young than the same exposure experienced later in life. Further, a number of studies have found that low-level exposure to neurotoxic pesticides during nervous system development can cause long-term neurological impairment. Many compounds, paricularly inorganic chemicals, are absorbed more readily by the young than by the adult."

Because of this constant exposure, compared to the general population, farmworkers are nine to 85 times more likely to suffer from diarrhea, three times more likely to suffer chemical exposure, and five times more likely to develop skin rash. The rate of parasitic disease among U.S. farmworkers is higher than among children in Guatemala.[6]

In an article entitled "Pesticide Related Health Problems in Farmworkers," Dr. Marion Moses, a known expert in the area of pesticide poisoning has stated that "because of repeated and regular exposure to toxic pesticides, farmworkers have instances of brain tumors, lymphoma, leukemia, multiple myeloma, lung cancer, sterility, damage to the nervous system, allergic dermatitis, chromosomal defects, and spontaneous abortions in women." Is this all farmworker children have to look forward to?

In addition to the pesticide exposure, stoop and hand harvesting labor can be detrimental to farmworker children who are still growing. The strenuous nature of farmwork creates back problems, muscle trauma and disabling arthritis that will plague a child for the rest of his or her life. Farmworker children are expected to use dangerous farming equipment that can result in serious injuries and even death. According to a Cornell University study in 1988 on accident rates for children working on farms, 35.6 percent of children aged 5-14 who work on a farm have been in some type of accident or sustained some type of injury. This statistic includes the children of farm owners and operators, in addtion to hired child workers who are not family members.

The child labor exemptions under the Fair Labor Standards Act of 1938 came about as a result of past chronic labor shortages, but this certainly is no longer the case. Due to an influx of workers, both legally under the Immigration Reform and Control Act of 1986 and illegally, the increased use of mechanized harvesting equipment, and a series of natural disasters in the past three years that have displaced thousands, there is a large surplus of adult workers available. It is no longer necessary to risk a child's health and safety, and foster provisions which their right to an education by allowing and economically forcing them to work in the fields.

While the efforts of the Department of Labor's Operation Child Watch strike force in March are commendable, most of the 500 compliance officers sent out focused on service industry-type businesses. Most of the violations were found in the food services industry. According to a list of employers cited and fined that was released by the Department, no agricultural employers had been cited or fined. It is well known that the month of March is not a high time of agricultural activity.

It seems hard to believe that no agricultural employers were cited, especially in homebase states since it is a well-known fact that entire farmworker families work in the fields in order to supplement their income. The *Boston Globe* recently published a series of articles about child labor abuses, which included several photos of farmworker children working in the fields. One particularly disturbing photo showed an eight year-old child in California eating pesticide-laced grapes as he helped his parents pick in the fields during school hours in October.

At the press conference announcing the results of the strike force, Secretary of Labor Dole said that "some" officers were sent to farms, but she declined to name specific areas or tell the number of agricultural employers cited or the results of their investigations.

With only 1,000 compliance officers to cover the entire workforce across America, including children, it is obvious that the Employment and Standards Administration's Wage and Hour Division is unable to do the job they are mandated to do. Assistant Secretary of Labor William Brooks, head of ESA, has admitted that among ESA's 1,000 compliance officers, none are specifically assigned to track child labor law violators.

According to the 1987 Statistical Abstract of the United States, in 1985, there were 7.9 million children under the age of 18 employed. Can only 1,000 compliance officers police the actions of the thousands of employers who hire child workers?

Changes are needed today to help agricultural industry modernize their labor management practices. Agricultural industry is a business, and as such should be treated like all other industry. Likewise, the children who work for ag industry should be treated equally as all other children working in other industry.

We urge you to help farmworker children who are working as hired employees on the farm by placing the following provisions into S. 2548:

- Immediately repeal the current exemptions provided under the Fair Labor Standards Act of 1938 and DOL regulations that allows agricultural employers to hire children under the age of 16 to work in agriculture;
- require the Occupational Health and Safety Administration (OSHA) inspectors to inspect all farms, even small ones, on a regular basis, for child labor violations;
- make the DOL Child Labor Advisory Committee a permanent committee and ensure that hired farmworker children have representation;
- ban agricultural employers from allowing any child under 18 to work harvesting any crop in which pesticides have been used during production;
- make provisions for the education of and assistance to farmworker families about the child labor laws and potentially detrimental effects on their children;
- educate agricultural employers on the current child labor laws and results for violations;
- make provisions for child care services to be available for the children of farmworkers on or near the farm work sites;
- target ESA compliance officers to pursue child labor violations specifically in the agricultural industry and provide adequate funding to carry out enforcement activities;
- enforce the current regulations and levy stiffer civil penalties and fines for violations.

The most effective way to assist agricultural industry in avoiding repeated violations of the child labor laws would be to require agricultural employers to provide all employed farmworkers with the same protections and benefits which are provided to workers in all other industries. These basic protections and benefits include:

1. Stricter child labor laws.
2. Unemployment insurance.
3. Fringe benefits, including paid health and medical coverage, paid vacation, and a retirement plan.

4. A guaranteed minimum wage.

5. Basic sanitary working conditions, such as fresh drinking water, reasonable access to handwashing and toilet facilities and safe and clean living accomodations.

6. Protections from a hazardous work environment, such as the worker's right to know in advance that they are working with a dangerous pesticide and what the potential long-term exposure effects are.

By providing farmworkers with these basic protections and benefits that other workers take for granted, then the additional protections which are being considered to protect other children would help to further protect children who are hired to work on farms. Unless farmworker children start from the same level of protections as all other children, no matter what additional protections that are added, hired child laborers will not be equally treated or protected. In essense, farmworker children, like their parents, are maintained as a sub-class citizenty.

What it basically comes down to is this - we can either pay now, by allowing farmworker children to get the education they deserve so that they are able to be self sufficient and provide for themselves and their future families, , or we can pay much more later through a variety of education, training and human service programs designed to correct the mistakes allowed in the past.

It has been 30 years since the airing of Edward R. Murrow's shocking CBS documentary "Harvest of Shame". After the show aired, Congress and the nation expressed outrage over the fact that these citizens, living in the most prosperous nation in the world, were existing in such bad conditions. For a while, Congress made the needs of farmworkers a high priority issue and promised to address the issues brought forth in the documentary.

But the highly graphic visions of the documentary faded and since farmworkers have never had the money, resources, or the powerful voice as that of agricultural industry, the needs of farmworker became a back burner issue, not only in Congress, but with the American public in general.

As a result, three generations of farmworkers and their children are still living in the same squalid conditions as the original farmworkers featured in "Harvest of Shame." The ones who have been hurt the most by promises broken have been farmworker children. They have a right to the same opportunities and protections offered to all other children in America. Steps must be taken at this time to provide these innocent victims equal treatment.

Formed in 1972, the Association of Farmworker Opportunity Programs (AFOP) is the national federation of non-profit organizations and state agencies who utilize federal and private funds to provide seasonal farmworkers, both migratory and non-migratory, with education, job training, and other forms of assistance in finding full-time employment and gaining self-sufficiency. Our members, who operate programs in 48 states and Puerto Rico, administer grants funded by the U.S. Department of Labor's Job Training Partnership Act, Title IV, Section 402 through a network of over 250 field offices located throughout rural agricultural America. We thank you for the opportunity to testify on this vitally important issue and will be happy to respond to any questions you may have.

FOOTNOTES

1. *Federal and State Employment Standards and U.S. Farm Labor: A Reference Guide to Labor Protective Laws and Their Applicability in the Agricultural Workplace*, Motivation, Education & Training, Austin TX. April 1988.

2. Association of Farmworker Testimony before the Department of Labor's National Child Labor Advisory Committee, February 8, 1990.

3. U.S. Department of Labor's Wage and Hour Division Letter, May 18, 1989.

4. Migrant Legal Action Program, Washington, D.C.

5. "Mysterious Maladies of Farm Workers," *Washington Post*, Washington, D.C., 1988

6. Dr. Eugene Gangarosa, Professor of Public Health (Emory University, Atlanta, GA), testimony before OSHA. Quoted in *The Nation* May 11, 1985, page 558.

OTHER SOURCES

Intolerable Risks: Pesticides In Our Children's Food, Natural Resoure Defense Council, February 1989.

"Pesticide Related Health Problems in Farmworkers," *Journal American Association of Occupational Health Nurses*, Vol. 37, pp. 115-130, 1989.

"The New Harvest of Shame," *Boston Globe*, April 26, 1990.

Statistical Abstract of the United States, 1987, U.S. Department of Commerce.

Senator DODD. The business community was not present here today, not for failure to try but because I guess they felt they didn't have enough time to respond. Nonetheless, we want to hear from them as well, obviously, as we move the legislation forward.

Again, we all express our apologies to you. You have all been here before. You know how this happens from time to time. Unfortunately, we have run out of time this morning, but we thank you for being with us.

The subcommittees will stand adjourned until further call of the Chair.

[Whereupon, at 12:08 p.m., the subcommittees were adjourned, subject to the call of the Chair.]

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